

" al Nāsikh wa al Mansūkh "

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al nāsikh wa al mansūkh

Abstract of the argument :

The principal sources of the Islamic sharī'a are traditionally held to have been the Qur'ān and 'the Sunna of the prophet'. The main elements of the sharī'a had thus been established during Muḥammad's lifetime.

Schacht has, however, shown that this attitude to the system dates only from the late second century A.H., when its earliest consistent formulation was set out by Shāfi'ī.

Islamic scholarship further argued the determination, during the very course of its formation, of the ultimate content of the sharī'a by the operation upon the continuing validity of numerous Qur'ān and Sunna statements of certain phenomena known collectively as 'al nāsikh wa al mansūkh', which include abrogation.

Acceptance of the reality of these phenomena - which amount to a modification of Muḥammad's legislation - allegedly derived in turn from Qur'ānic and Sunna statements. The modifications were thus also attributed to Muḥammad.

Apart from polemic exploitation, the principle of abrogation has attracted little serious non-Muslim attention. Orientalists have concentrated upon the Qur'ān almost exclusively as a document to whose analysis purely literary techniques /

techniques were applicable. Limiting his celebrated enquiry to the claim that several revealed verses had been omitted from the collected Qur'ān - a reflection of only one aspect of the term 'naskh' (omission) - Nöldeke failed to perceive that it was for the Qur'ān as source that the 'naskh' principle held its main significance for the Muslims. The latter, in their prolonged quarrels over the question of the abrogation of the Qur'ān by the Sunna primarily emphasised another meaning of the term.

Comparative examination of both meanings in detail establishes that the 'omission' component of the term is secondary to the 'abrogation' element, while the latter derived from embarrassment at the recognition of conflict between the alleged sources of the sharī'a when both were held to have been revealed.




## DECLARATION.

THIS IS TO CERTIFY that the thesis submitted herewith in application for the Degree of Doctor of Philosophy embodies my personal account of the results of a programme of research initiated by me subsequent to my registration as a candidate for this degree and conducted thereafter exclusively by me under the supervision of Professor C.F. Beckingham.

The contribution made to the study of the Islamic sciences by this work lies chiefly in the distinction drawn between the Qur'ān source and the Qur'ān document. The Qur'ān source, as as part of the Sunna of Muḥammad, came into conflict both with muṣḥafs and ḥadīths from others and with ḥadīths from the prophet himself. The Qur'ān-ḥadīth conflicts were resolved by the development of the concept of 'the Sunna of the Prophet', while the Qur'ān-Sunna of the Prophet conflict stimulated the origination and development of the theories of abrogation, in the application of which the Qur'ān contents exhibit a high degree of flexibility.

By contrast, the Qur'ān document appears immutably fixed. This discovery calls into question the traditional Muslim account of the preparation of a textus receptus only after the death of the prophet, and the traditional European exploitation of the alleged 'variant readings' as evidence for both the history of the text of the Qur'ān and the history of the Arabic language.

October 1969.

  
John Burton.

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Note : Nawawī's Sharḥ to the Muslim Ṣaḥīḥ is on the margin of:  
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Unless otherwise stated the Buchārī references are based on  
the °Asqalānī (q.v.) edition referred to above.

#### TRANSLITERATION:

Generally, where these correspond to the Arabic, the English  
orthographic conventions for vowels, diphthongs and consonants  
have been employed, otherwise :

h represents	hā°	ḍ represents	ḍād	° represents	
ḥ	ḥā°	ṭ	ṭā°		°ain
kh	khā°	ẓ	ẓā°	gh	ghain
dh	dhāl	q	qāf		
ṣ	ṣād	°	hamza		

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## The Islamic theory of abrogation

## CHAPTER ONE: The shari'a and its sources.

The First Source. The Book:

The consequence, alike for the Muslim, and the non-Muslim scholar, of Islam's claim to be a divine revelation, is that the entire definable content of what is held to have been revealed from God to the prophet is accessible to the scrutiny of scholarship. The documents of that revelation now consist, in part, of the Qur'ān, where have been collected together, into a single slight volume, the texts of the individual revelations, brought down by the angel of God to Muḥammad<sup>1</sup> during the course of his prophetic career. The Book, thus constituted, contains, in the Muslim view, not one single word contributed by Muḥammad himself, nor, a fortiori, by any other human person - it is, in strict literal fact, the Book of God (Kitāb Allāh). Its contents, built up, phrase by phrase, sentence by sentence, over the twenty-three years, occupied by the formation of the new social order of Islam, presided over visibly, here on earth, in /

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1. Q.II,97: 'He, Gabriel, brought it down upon your heart by permission of God...'

in seventh century Arabia, by the prophet, invisibly, in Heaven, by God Most High, represent the final and the fullest revelation to Man of His divine will by the Creator and Lord of the Universe.<sup>1</sup> The religion inculcated in God's Book is that religion, in which God Himself has personally instructed His creatures, and by which alone, He desires them to know Him and to serve Him.<sup>2</sup> The laws, whether in the private, ritual, penal, civil and commercial spheres which the Book established, are the blue-print of that constitution, on whose basis, at God's direct command, and under His personal day-to-day supervision, was constructed, at a point in historical time, the ideal human society most pleasing to the divine legislator.<sup>3</sup> Islam, both in its internal creature-

to- /

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1. Shāfi'ī, Risālah, p.3. "Muḥammad was God's choice as seal of the prophethood, and as recipient of the fullest message.."; cf. *ibid.* p.9: "By him God sealed the prophethood, and to him revealed the latest (and last) of His books."
2. *ibid.* p.4. cf. also Q.V,3. ... wa radītu lakum al 'islām dīnan.
3. Risālah, p.4: The religion which God delighted in, and for the communication of which He selected His angels and the Blessed one(s) of His Creatures. cf. Sh. Muḥd. 'Abū Zuhra 'Uṣūl al fiqh, p.74. The Qur'ān was revealed, as the need for clarification, and a ruling arose. The occasion of the individual revelations clarifies, in turn, the objects aimed at, in the rulings revealed.

to-creature relationships, and in its cosmic creature-to-Creator relationship, represents the perfection to be achieved in the ordering and governing of human affairs, only when, and whenever men acknowledge that the sole source of all authority, religious, and secular, is vested in the will of God, eternally operative throughout the universe, which it created, and which it continues to maintain in existence, from moment to moment.

For Sunnī Islam,<sup>1</sup> good is conformity with the revealed divine will; evil is ignorance of, heedlessness towards, or, at worst, defiance of the divine will. But, since, in this, His own Book, God has made clear to all His Holy Will, no man henceforth will have any excuse.<sup>2</sup>

#### The Second Source. The Prophet:

Post-Muḥammedan scholarship has made two important historical assertions. First, that throughout the twenty-three years of Muḥammad's ministry to make known the divine will on God's behalf, there had arisen, in the ordinary day-to-day affairs of the earthly community of God, problems of individual, or corporate conduct, concerning which the faithful would naturally look to their prophet for advice and guidance. /

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1. i.e. as opposed to the Muṭazila doctrine that good and evil can be partly apprehended by unaided reason.

2. Umm. VII, p.246.

guidance. Some of these difficulties, it is asserted, had been resolved by the ad hoc revelation of a direct divine ruling on the matter in question. The texts of these heavenly replies have survived to this day, with their original wording, in the Holy Book.<sup>1</sup> Other, similar difficulties might be settled by the prophet, acting either upon the basis of his inspired prophetic judgment, or, even, on his own human initiative.<sup>2</sup>

Alternatively, it might well be that such problems did not arise in the prophet's immediate environment, and that the decision would fall to the responsibility of his appointed local agent.<sup>3</sup> Or again, perhaps, the question did not even cause any anxiety until after death had removed the prophet from his people, and the requisite solution must be sought from one who had been sufficiently close to the prophet, in life - one of his wives,<sup>4</sup> possibly, or one of his most faithful /

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1. vide the 'asking verses'; e.g. Q.II, 189, 215, 219, 220, 222; Q.IV, 127, 176; Q.V, 101; Q.VI, 57; Q.VII, 187; Q.VIII, 1.

2. This distinction is itself the subject of debate. See below, p.238; 246; 255-6.

3. Risālah, p.57: Mu'ādh b. Jabal; Qais b. 'Āsim; al Zubarqān b. Badr; ibn Nuwaira; ibn Sa'd b. al 'Āṣ.

4. Shāfi'ī: Ikhtilāf, pp.232-3: "This being a private matter, his wives would be better informed on it than some man dependent upon hearsay." (cf. The jizya of the Majūs in 'Umar's day: Ikh., p.21).

ful adherents, best acquainted with Muḥammad's day-to-day behaviour, and thus, in a position to describe in detail how the prophet himself had acted in the given circumstances.<sup>1</sup> In the same way, it was also asserted, any difficulties in understanding the divine revelations reaching the community, or questions of disputed interpretation on matters of detail had satisfactorily been resolved.<sup>2</sup> From the records of all such questions and answers, there had thus grown up, in the Muslim view, both during, and after the prophet's lifetime, alongside the Book of God, a parallel documentation of the demeanour and practice of the prophet of God, whether in the observance and performance of the details of the ritual required of Man by God, or in the conduct of his daily secular relations with his fellows in the community at large, or with the members of his immediate household, in the privacy of his home.

There are, thus, in the Muslim view, two primary sources for /

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1. cf. Ṭayālasī, Sunan, p.64, No. 474. "Abū Dharr is able to answer a question Shaqîq would have asked Muḥammad if he had ever met him."

2. cf. H. Birkeland: The Lord Guideth; Norske Videnskaps-Akademi i Oslo, II Hist-Filos Klasse, 1956, No.2, pp.49-50. For a marfū° Tafsīr-Ḥadīth. (cf. Ṭab., on Q.IX,3).

for our knowledge of the evolution of Islam between the years 610-632 A.D.: the direct revelation (al wahy<sup>h</sup> al matlū) exhibited in the records of the gradual communication of the Will of God, as conveyed from the throne of the Almighty to His prophet, at Mecca or Medīna, by the angel entrusted with the revelation. This is the revelation of the Book, collected, and published in the Qur<sup>ā</sup>n.

We possess, in addition, the indirect revelation<sup>1</sup> (al wahyu ghair al matlū) exhibited in our records of the words and actions of the Messenger of God, or reflected in those words and actions attributed to him by his lifelong companions and followers. This is the revelation of the person, collected and published in the Sunna. This last "collection" was, however, a somewhat slower process and was not fully accomplished until some two centuries later than the period when the Qur<sup>ā</sup>n was thought to have been published.

#### The Islamic Sciences:

It is the duty and responsibility of all men, having been thus summoned by God's prophet to partake in the work of constructing the Kingdom of God on earth, to identify and to study the contents of these twin revelations, where will be /

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1. See foot-note 2, p.16. cf. infra p. 239, n.1; pp. 379-80.

be discovered all the principal materials necessary to the completion of this Heaven-imposed task. In these two sources, the complete statement of the revealed will of the Godhead is made available for the taking.<sup>1</sup> To win the glittering prizes promised by Qur'ān and prophet, is for men, but a matter of choice. They simply have to decide whether to listen and accept, or to turn away, and give no heed. Islam is essentially a bargain held out to the passing individual. The first step is merely an exercise of the will, of deciding whether to accept the proffered transaction; to enquire what is required in the way of general discipline, and to give or withhold one's assent.<sup>2</sup> Do this, and Paradise will be yours. Refuse, and an eternity of torment awaits you. Following the initial act of volition, all else is purposive action, directed at the faithful fulfilment of the norms of behaviour set out in the revelations. Such fulfilment will lead to the establishment, in this world, of the perfect God-designed society, and in the hereafter, to its continuation in an eternity of felicity. To be able to acquit oneself of one's side in this bargain, the basic requisite is knowledge of the contents of the documents of the dual /

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1. Risālah , p.4: No problem confronts a member of God's religion but that an indication can be found in God's Book, pointing the way to the revealed solution.

2. cf. e.g. Q.XLVIII,10, the use of the word: 'bai'a'.



dual revelation.<sup>1</sup> Such are the presumptions of second century Muslim thinking, and they explain why the characteristic activities of the Muslims are referred to by their practitioners as 'sciences', and why the various Islamic sciences, as these developed in the generations following the age of revelation, are viewed as ultimately, more or less closely related aspects of a general, although unco-ordinated effort of exegesis.<sup>2</sup>

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1. Umm, VII,p.246: "Knowledge is of various grades: the first is the Book and the Sunna if the individual Sunna be authentic... No account is taken of aught else when Book and Sunna are available." Muḥammad Abu Zuhra, Uṣūl al Fiqh, p.71: ... "the one source, the document, i.e. The Book and the Sunna."
  2. Zuhra, op.cit. p.86. The Qur'ān is the compendium of this shari'ah. cf. Ghazzālī, Mus.pt.I,p.100: It is clear that the source of the Islāmic regulations is one...the word of God. This is because the word of the prophet is neither decisive nor binding per se but informs us on God's behalf that He has decided so and so. The imposition is thus God's alone. The ijmā' indicates that the source is the Sunna, and the Sunna points to the divine decision. But if we consider our knowledge of any decision, it is seen that for this, we depend upon the prophet, since we do not hear the voice of God, nor yet of Gabriel, for we are aware of the Book of God solely by means of the communication conveyed by the prophet. Thus in this sense, as far as we are concerned, the source is the prophet.

The function of the 'scientists' (ʿulemā; fuqahā) is conceived to be one of derivation (istinbāṭ; istikhrāj) so. to review, in their entirety, the documents of the revelation, and to extract from their texts, for the guidance of their contemporaries, and their posterity, a clear statement of the ideal behaviour revealed to them, and required of them by God.<sup>1</sup> To the sum of the prescriptions resulting from these labours, was given the name shariʿa - the path to be followed, the normative Muslim way of life, which the commands, prohibitions, exhortations and recommendations of the documents could be shown to embody.

The processes of 'derivation' and definition were prolonged and belated - how prolonged and how belated is clear from the consideration that the great names of Islamic fiqh span the hundred years from the mid-second to the mid-third centuries of the Islamic era. The century and a half gap between the oldest surviving monuments of the science of fiqh and the age of the revelation is bridged by the formula that the scholars merely made explicit what had always been implicit in both Qurʾān and Sunna.

The verification of this last principle is the function of /

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1. Zuhra, op.cit. p.66. 'All the defining techniques are a means to the knowledge of God's decisions.'

of a secondary science - the science of the bases of the fiqh - whose origin is traditionally attributed to the great late second century scholar Shāfi'ī<sup>1</sup> (d. 204 A.H.). Merely human premisses are thus held to have been excluded from participation in these processes of extraction and formulation of the Islamic system of definitions.<sup>2</sup>

Modern western scholarship has, however, so effectively questioned the elegant simplicity of this picture of the Muslim faithful patiently constructing Islam from the materials provided by God and His prophet that it is now no longer tenable. Specifically as the result of the fundamental works of Goldziher<sup>3</sup> and Schacht,<sup>4</sup> it is now clear that, far from being the end-product of a prolonged process of scholarly 'deduction' from the inherited texts of the two primary sources, the sharī'a appears, in fact, to have largely preceded /

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1. Zuhra, op.cit. p.13-14.

2. ibid. p.70. lā taklīf bil 'aql innamā al taklīf bi 'awāmir al shāri' wa nawāhihi.

3. Muhammedanischen Studien, pt.II, pp.1-274, on the development of the ḥadīth; Die Zahiriten for the struggle between ḥadīth and ra'y, pp.3-19.

4. The Origins of Muhammedan Jurisprudence, Oxford 1950, the effective verification of Goldziher's main thesis by testing it against the individual conclusions of the fiqh.

preceded its alleged sources in many particular conclusions. Once this view of the historical evolution of the system is grasped, the realisation becomes inevitable that (at least) the Sunna, stands to the system of doctrines, not in the relation of source-to-product, but, rather, in the reverse relation of a body of materials introduced, a posteriori, to verify doctrines previously derived from quite other bases. Goldziher has isolated two principles of the highest historical significance:<sup>1</sup> the uncertainties and hesitations on the most elementary questions which prevailed in the early period; and the fact that the ḥadīth movement was later in date than the speculative techniques in opposition to which it originated.<sup>2</sup> Both he<sup>3</sup> and Schacht<sup>4</sup> doubt whether the evidence of legal traditions will carry us back beyond the beginning of the second Islamic century.<sup>5</sup>

The most significant feature of the struggle between the speculative and the ḥadīth movements is that it represented /

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1. Muh.St., pt.II, p.74.

2. ibid. II, p.77.

3. ibid. II, p.74-5.

4. op.cit. p.5.

5. The same appears to be true for Tafsīr also. cf. Birkeland, p.11.

presented a contest of fundamental theoretical principle, and one must seek to enquire whether there was being felt in second century Islam some novel impulse which provoked the equally novel doctrine that the system must be clearly seen to be based upon the pronouncements of the prophet. Despite the brilliance of Goldziher's discoveries, as these affect the Sunna, the very plausibility of the classical Muslim version of the 'derivation' of the sharī'a has aided, (one might almost think, guaranteed) its nearly general acceptance, even in our own day. One does not intend to exclude from this statement western non-Muslim scholarship. This is particularly true of the role in the derivation processes ascribed to the Qur'ān, the persistent acceptance of which has been not a little reinforced by the homage rightly paid by western scholars to the monumental study on the Qur'ān by the other great luminary of nineteenth century European Islamology, Th. Nöldeke.<sup>1</sup> Should the materials examined in this present enquiry require us to suggest solutions to basic questions of Islamic development, in the sphere of the Qur'ān's rôle at variance with those advanced by Nöldeke in his Geschichte des Qurāns,<sup>2</sup> the demands of the evidence now available /

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1. vide Blachère, Intro., p.xxvii. Le Coran est bien la source principale de la loi Islamique mais il n'en est pas la seule.

2. On Abrogation, vide GdQ. pt.I, pp.234-256; on the collection of the Qur'ān, vide GdQ. pt.II, pp.11-62.

available, will be deferred to, in no frivolous spirit of eager hastening to disagree with the great, but rather, from sober scientific curiosity to follow where the indications appear to lead. No greater homage may be paid to the founders of European Oriental studies than to adhere to the principal guidelines they established for those who should follow after them. If observation of their greatest canon - unbiassed faithfulness to the evidence - should lead to the partial modification of certain individual conclusions they propounded, this in no way reflects upon the greatness of their personal achievements, which remain secure and continue to excite admiration.

Among such indications we refer to, is the question which must arise from Goldziher's contribution to our understanding of the rôle of the Sunna: if this causes us to modify our response to the classical Islamic view of the 'derivation' of the sharī'a from the inherited revelations of the Qur'ān and the Sunna, in respect of the function of the Sunna, is it scientifically legitimate to continue to give up our unquestioning allegiance to the orthodox view of the historical rôle alleged to have been played in the same processes of 'derivation' by the Qur'ān? If the part exerted by one of two traditional sources of the sharī'a is impugned, what implications, if any, will this tend to have for /

for our view of the alleged historical rôle of the other? The question arises more especially if it is possible to attempt, in historical terms, an explanation of the introduction of that principle that a fundamental rôle in the construction of the doctrine must of necessity be seen to have been played by the Sunna. This is the same as saying that it had at one point come to be recognised that a rôle in the definition of Islam should be assigned to the prophet - a conclusion imposed upon the Muslims by internal polemic pressures. The appreciation of this nuance leads to the further question: may not the same explanation, or one closely related to it, serve to account also for the urge evinced, at a certain stage, by Muslims, to assign a rôle in the processes of 'derivation' to the Book of Islam<sup>1</sup> - again as the result of polemic prompting?

Only the clarity of thought to be sought by exercise of the severest self-discipline and vigilance, in matters of the meanings and use of words will extricate us, in the following /

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1. 'Umar's personal decision to create as a waqf the conquered territories of Syria and Irāq could not be referred back to Muḥammad. Everyone recognised it had occurred after his death. It was therefore made to appear, by use of a quite spurious tafsīr, to derive from Q.LIX, 10. cf. 'Abū Yusūf: K. al Kharāj, p.23. 'Umar's tafsīr was in a sense "inspired", vide op.cit. p.27.

following study, from the confusions inherent, and endemic, in the Muslim discussions on sources.

### The Sunna:

The first step to this end, is to distinguish sharply, in the way pointed out by Goldziher, between the terms 'ḥadīth' and 'sunna':<sup>1</sup> "Ḥadīth ist eine auf den Propheten zurückgeführte mündliche Mittheilung. Sunna ist, ohne Rücksicht darauf, ob darüber etwas mündlich Mitgetheiltes vorliegt oder nicht, der in den alten muhammedanischen Gemeinde lebende Usus mit Bezug auf ein religiöses oder gesetzliches Moment."<sup>2</sup> Aus einer in einem Ḥadīth enthaltenen Norm folgt nach der Natur der Sache dass dieselbe als Sunna zu gelten habe; es ist aber nicht nothwendig dass der Sunna ein Ḥadīth entspreche, durch welches dieselbe ihre Sanction erhält. Vielmehr ist es wieder ganz gut möglich dass der Inhalt eines Ḥadīth mit der Sunna, oder, wie wir sagen möchten, dem ius consuetudinis, in Widerspruch stehe und da ist es Sache der spitzfindigen Theologen und Harmonistiker sich zurecht zu finden."

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1. Muh. St., II, pp.11-12.

2. For this definition of the pre-Shāfi'ī use of the term "sunna" cf. Schacht, op.cit. p.3, para.3. cf. op.cit.p.20. "Shāfi'ī's preference as a matter of principle for the traditions from the prophet is his great systematic innovation."



A further distinction is necessary, occasioned by the gradual narrowing down in Islam of the semantic burden of the word 'sunna', which originally bore reference to 'all that the tribal tradition transmitted of the approved customs and manners of preceding generations to serve as the unquestioned basis and sanction of the conduct of the living generation'.

Since the Islamic entity which produced the Islamic sunna represented a much vaster population, of much more heterogeneous character, scattered over a far wider territorial extent than any pre-Islamic tribe, or indeed, than the compact, although considerably mixed community presided over historically by Muḥammad, that close-knit social integrity and homogeneity of outlook which the institution of adherence to the sunna of the ancestors both bespeaks, and at the same time fosters, and preserves, cannot possibly have been achieved, except on a narrow local scale.<sup>1</sup> Indeed, the outstanding psychological feature exhibited by the very men engaged in laying the foundations of the Islamic fiqh is the diminishing range of their geographical and historical perspectives. Representative of the former, is the contentment /

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1. cf. the story of Harūn's alleged wish to impose Mālik's book on the Muslims, as ʿUthmān had imposed on them the Qurʾān. Quoted by Goldziher, Die Zāhiriten, p.94.

ment of Mālik b. ḤAnas<sup>1</sup> to limit his description of the sunna, to the contemporary and immediately past practice of a single city,<sup>2</sup> of the latter, is Shāfi'ī's attempt, arising out of the severely static view he took of the documents he had inherited, to foreshorten the historical lines, by compressing the content of those documents to which alone he was prepared to assign the highest degree of authority, into a composition period covering only the twenty-three years of Muḥammad's ministry.<sup>3</sup> Schacht's achievement in separating and contrasting the different starting-points and differing techniques of the main regional fiqh centres has rendered the classical formula on the bases of the fiqh finally indefensible. The Hijazis and the Iraqis, in any given generation, once the demand for documentation had arisen, had tended to cull from, or to add to their respective local literatures those materials which appeared to them best fitted to supply the documentary pedigree of the usus and cultus in vogue in their respective regions, content that such ḥadīths as they defensively introduced would induce the passive assumption that the exegesis of the fathers must derive ultimately from the /

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1. Or rather, the Mālikis, cf. Shāfi'ī, *Umm*, VII, pp.240 ff.

2. Schacht, *op.cit.* p.3, para.3.

3. *Umm*, VII, p.246. cf. Schacht, *op.cit.* pp.62-3.

the prophet's generation.<sup>1</sup> The practice of attributing the current doctrine to the fathers, informal at first, but still, indicative of a demand for such retrojection, becomes, when challenged, more formal, and, as the challenge acquires greater precision, carries the attribution accordingly, beyond the fathers to the Companions, and, finally to the prophet himself.<sup>2</sup> The responses to the demand for documentation were still, in the late second century, sporadic and inconsistent, which, of course, argues that the challenge itself was not yet regularised.<sup>3</sup>

Shāfi'ī: The clearest individual evidence for these developments is afforded by the writings of Shāfi'ī himself, who was provided with his opportunity to be scathingly persuasive in his attacks on his contemporaries by their inability to furnish clearly defined Islamic criteria of evidence.<sup>4</sup> It was to this end that he strove single-mindedly to /

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1. Schacht, op.cit. p.79.

2. ibid, p.13. "The Medinese, and the ancient schools of law, in general, had already used traditions from the prophet as the basis of many decisions, but had often neglected them in favour of the reported practice or opinions of his Companions, not to mention their own established practice."

3. Schacht, loc.cit., contrasting Shāfi'ī Tr. VIII,5 with Ikh. 138.

4. Umm, VII, p.246: only the Kitāb and the Sunna provide binding information and it is incumbent upon every Muslim to obey them implicitly.

to impose his own more rigorous, (and recent) formal distinction between the 'sunna of the prophet' and the more anonymous 'sunna' of others, especially where these two 'sources' appeared to clash.<sup>1</sup>

The activities of Shāfi'ī, therefore, represent no less than a radical change of direction in the theoretical development of the Islamic sciences, which would be all the more striking if these sciences were to continue to be considered as a phenomenon provoked by stimuli purely internal to Islam. The change, it must be emphasised, was to all appearances, dictated by a novel tone, a completely fresh way of expressing the uniqueness of the figure of the prophet, which cannot fail to suggest implications for the history of Islamic theory in its external relations to other systems of belief. Shāfi'ī /

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1. Thus, one source of contradiction between hadiths and Sunnas was removed by Shāfi'ī's principle of distinguishing between a hadith from the prophet and a hadith from any other. Vide Ikh. p.19. "A report from the prophet is self-supporting requiring reinforcement from no other quarter. It is neither strengthened nor weakened by a report from any other source. If (there be a report to the effect that) one of the Companions acted otherwise, it is only incumbent upon people to follow the report from the prophet ignoring all else that may speak to the contrary for it is possible that one of the earliest of the Companions, having a vast acquaintance with the prophet's ways, be yet unaware of some particular element of his practice, which is known to some other Companion."

Shāfi'ī's efforts provide also a clue to a firmer appreciation of the nature of the activities of his predecessors. They had been occupied in labours essentially different in assumptions from those which were to engage Shāfi'ī. Mālik, in his *Muwaṭṭa'*, is concerned to detail, and account for the practice, actual, and ideal,<sup>1</sup> approved by the Muslims of his generation in the Hijāz. It is thus natural that, showing, where he can, the theoretical grounds on which the contemporary practice was thought to rest, his documentation will include materials traced to a variety of individual authorities in various preceding generations. His purpose being chiefly, however, descriptive, and only secondarily historical, his techniques are not exclusively literary and interpretative, but contain a considerable speculative element. He aims to prescribe, but also partly to describe the behaviour of Muslims." Shāfi'ī, on the contrary, is interested, solely (at least, theoretically) in deriving the Law of Islam. As Mālik aims mainly at the local and the contingent, Shāfi'ī regards only the universal and the eternal, and is thus the first major figure in Sunnī Islam who can properly be said to have concerned himself with the documentation of the revelation.<sup>2</sup> This, it ought, perhaps, to be emphasised, /

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1. Schacht, op.cit. p.68.

2. *Umm*, I, p.110: "When the Messenger of God died, God's impositions ceased. They will neither be added to, nor subtracted from, during all subsequent time."

emphasised, occurred in the latter half of the second century! Some idea of the informality of the earlier scholarship is provided by the fact that before Shāfi'ī, there did not even exist a theory of sources. The science of *uṣūl al fiqh* - sc. the rules for determining what materials the Muslim scholar might properly draw upon for the 'derivation' of the doctrine, the identification and authentication of those materials, and above all for defining their relative primacy as sources, did not exist, as a formal discipline, until Shāfi'ī laid down the basic definitions and rules of the new science in his *Risālah*, towards the end of the second Islamic century. Similar principles and rules, had of course, it is believed, governed the 'deductions' of the pre-Shāfi'ī scholars. Shāfi'ī is therefore seen by Muslims not as 'inventing' the rules of *uṣūl al fiqh*, any more than Aristotle 'invented' the rules of logic, but rather as extracting and codifying them.<sup>1</sup> It nevertheless remains true that on the basis of the rules he drew up Shāfi'ī found much to criticise in the techniques of both the earlier and the contemporary schools, and equally true that the schools, adopting the new tool, employed it as they had already employed /

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1. Zuhra, op.cit. pp.13-14.

employed the ḥadīth principle<sup>1</sup> to justify and preserve their main doctrines. Mālik had outlined the situation which was tacitly supposed to be the natural organic development of Medīna's historical connection with the society constructed between the years 622-632 by Muḥammad. That society had, of course, not ceased to function on his death, but had continued to operate and evolve daily along the lines determined by its particular identity. Shāfi'ī was concerned with the implications for his own, and for all succeeding generations, of the supernatural irruption of the voice of God at a known date into human affairs. Muḥammad, or rather, his generation, is for Mālik, the ultimate, putative historical terminus ad quem; for Shāfi'ī, not Muḥammad, but the 'prophet figure' is the universal, necessary terminus ā quō. Mālik's view is vaguely, and sporadically retrospective; Shāfi'ī's prospective, at any rate, in theoretical intent, and to him, the classical view of the sharī'a, as derived by the Muslim scholar from the twin revelations of the Book of God, and the prophet of God, is certainly applicable, for the /

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1. Schacht, op.cit. p.80: "The continuous development of doctrine in the ancient schools was outpaced by the development of traditions, particularly those from the prophet in the period before Shāfi'ī and the ancient schools were already on the defensive against the rising tide of traditions when Shāfi'ī appeared."

the reason that it mainly derives from his work. It is doubtful whether it has consistent relevance to any earlier figure.

Scholars have characterised the fiqh as the 'islamisation' of the system obtaining at the end of the Umayyad period.<sup>1</sup> It may be that we should speak, rather, of two processes, the earlier of which might be regarded as the desecularisation of the doctrine, and only the later as its self-conscious islamisation proper.<sup>2</sup> For Shāfi'ī's principal achievement was the reduction of the meaning of the vague term 'sunna' until it invariably implied only the 'sunna of the prophet'.<sup>3</sup>

In another direction, his more lasting, and perhaps even more significant contribution, was his imposition of a formal theoretical distinction - (although, paradoxically, this was far from being the effect he had intended) - between the 'sunna of the prophet' and the Qur'ān quā sources, again, especially where these fundamental sources apparently clashed.

But, appearing at a relatively late stage in the processes /

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1. Schacht, op.cit. p.5.

2. Bergsträsser, Islam, XIV, p.78-80.

3. Schacht, op.cit. p.20.



processes of definition, Shāfi'ī was not prepared, nor, indeed free, to initiate his own programme of derivation ab initio, by rejecting the entire work of the previous century and a half, and returning direct to the Qur'ān and Sunna sources. His scholarly activity could not be interpreted as construction ex nihilo, but rather must be viewed as confined to correction through polemic. Even more, he was concerned with documentation. Much that had already been determined had achieved widespread recognition - such as, e.g. the number of the daily ritual prayers, and the times at which they should be offered, the nature and the timing of the Fast, the timing of the pilgrimage and the minimum rites involved in its complete performance, the amounts of the zakāt on various items, and when these payments fell due, the penalties for certain felonies and so forth.<sup>1</sup> Such conclusions he recognises as "transmitted from the countless to the countless", and, as such, to be accepted. The inevitable acceptance of the status quo is the seed of the Islamic 'ijmā' doctrine. But, on matters of practical detail, where considerable ikhtilāf was still possible, and still prevalent, he set out to review the bases from which the scholars, both before him and contemporary with him, had derived their individual opinions and the methods by which they /

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1. Risālah, p.50.

they had drawn their conclusions. To these two elements he applied the incisive critique which he had perfected, building up from his simple novel theoretical starting-point, sc. that Islam was a revelation.<sup>1</sup>

Those conclusions which had before his emergence, achieved general assent, he similarly reviewed and justified. In this sense, his method is thus, both retrospective and narrowly normative. The most striking of its features, is, however, that it is largely verificative and self-consciously Islamic.

The function of *ḥuṣūl al fiqh*, in his hands, is thus, two-fold: to tidy up the loose ends of detail such as yet remained determinable by the individual scholar, and both for these, and for the broad lines of the doctrine, as it had developed in the previous century and a half, to provide the justification of an exclusively Islamic documentation.

The actual broad history, therefore, of the second century Islamic sciences, is ultimately reducible to the record of the shifts and changes in men's attitudes on the one single major methodological question: the relative status /

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1. *Umm*, I, p.110: "When God took His prophet the divine enactments ceased; they will never be added to, nor subtracted from. The "practice" is meaningless."

status quâ 'source' to be accorded to the Book of God, on the one hand, and on the other, to whatever passes, at the given moment, for the 'sunna'.

Shāfi'ī's significance is that to him chiefly Islām is indebted for the elevation of the second of its alleged sources to revealed status.<sup>1</sup>

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1. See further, *infra* p. 239.

## CHAPTER TWO: The theories of abrogation:

(a) The general theory:

As those processes which, it was thought, had led to the patient elaboration of the fiqh were reviewed in retrospect in the light of the assumptions of its late-born daughter science, *ʿuṣūl al fiqh*, instances of conflict between the sources were noted and in consequence a significant methodological role necessarily came to be allotted to a variety of phenomena referred to, collectively, by the scholars as: 'al nāsikh wa al mansūkh'.

These phenomena, it will be shown, were originally quite unrelated one to another, but, the fact of their independent origins soon became, progressively, because imperceptibly lost sight of, owing to the historical accident of their gradual assimilation within the vocabulary developed in the course of scholastic discussions extending over several generations, and their accommodation, in the end, under the cover of a single comprehensive technical term, "naskh". Indeed, these 'phenomena', it will also be shown, were not originally phenomena at all, so much as merely assumptions, but assumptions of such attractive and proven theoretical utility, as led, gradually to their constant /

constant employment as problem-solvers, within a science devoted to the retrospective elucidation (sc. verification) of the Islamic history of the development of the doctrine. It was not long before the Muslim scholars had grown so accustomed to relying upon them that they ceased at first, to remember, and finally, even to be aware that they might have no objective validity outside the school.

By 'naskh', the scholars understood, in the most general terms, that revelatory process by which certain of the divine decisions, enacted at a given date, had been overtaken, and superseded by other divine decisions, enacted at a later date.<sup>1</sup> We shall return later to the consideration of the consequences for the Muslims of the undoubted existence of these ideas at a date earlier, not only than the establishment of the Islamic sciences, but before even the foundation of Islam itself. The term 'naskh' has, therefore, when used without further qualification, this meaning of supersession, but, in the quite strict sense, that it is God alone, whose prerogative it is to repeal one of /

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1. For reasons which will become clear as we proceed, it is extremely difficult to quote a satisfactory representative Muslim definition. For our present purposes the following will serve: "The repeal of an enactment by means of a (later) indication (dalīl)", vide Muḥammad ʿAbdūl ʿAzīm al Zurqānī, Manāhil al ʿUrfān fī ʿulūm al Qurʾān, pt.II, p.72.

of His decisions, embodied in one of His divine revelations, by the provision of another revelation, embodying a quite different decision. It must be clearly appreciated from the outset, however, that there was not necessarily to be found in the documents, in all such instances, a formal explicit divine announcement of abrogation. The fact alone of the simultaneous co-existence of two divine enactments was held by the scholars to provide sufficient warrant for the inference that only one of the two was intended to be acted upon.<sup>1</sup> It will also be clear that, by definition, the later /

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1. Burhān al Dīn Ibrāhīm b. ʿUmar al Jaʿbarī: K. Rusūkh al ʿIkhbār fi Mansūkh al ʿAkhbār, ms. Taimūr, Ḥadīth, 152, fol.5. "It is not a condition of 'naskh' that any specific word should indicate it. Generally it may be inferred from the documents, where it may be explicitly, apparently, or implicitly stated. (In the last case, it is derived by interpretation). cf. Mafātīḥ al Wuṣūl: "Both the Nāsikh and the Mansūkh do not require to be specific provisions. The phenomenon can be deduced from the sense of the utterance if not from its explicit statement, or from its apparent meaning, or, from the behaviour of the prophet." Fakhr al Rāzī's definition is: "The repeal of a provision by a later indication (dalīl) (Tafsīr ad ʿ. II, 106). cf. ibn Ḥazm al Zāhirī, Muḥalla, XI, p.230: "It is absolutely unacceptable to say of any part of the Qurʾān that it is abrogated by so-and-so or that it abrogates so-and-so, in the absence of complete certainty. This is because such a declaration concerns what God intends, which cannot be ascertained /

later of the two decisions was invariably considered by the scholars to be the sole legally operative requirement - the nāsikh - while the earlier - the mansūkh - was regarded as quite void.<sup>1</sup>

The elements required to be identified, in all instances of alleged abrogation, are therefore, three:

- (a) the divine origin of both enactments,
- (b) conflict,
- (c) the relative dates of both enactments.

The singular usefulness, in scholarly dispute, of this theory of abrogation will be sufficiently clear, if we word it in the following manner: within the body of the Qur'ān and the Sunna, whose formation extended, at the least estimate, over some twenty odd years, of which roughly half pertains to the period of the prophet's activities in Mecca, the remainder to the /

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ascertained other than by an explicit Qur'ān statement, or a sound ḥadīth from the prophet - which is a divine revelation - or by an indubitable consensus reported from the Companions, reporting in turn from the prophet, or by unavoidable intellectual compulsion. By this last is meant that one is absolutely certain that one of the two texts is later than the other, and that it is quite impossible to implement the two jointly. From this we are aware that God has nullified the injunction of the earlier by His revelation of the later."

1. vide: Muḥd 'Abdul 'Azīm al Zurqānī, op.cit. p.76.

the period he spent in Medina, there are to be found, occasionally, statements occurring in one context, and dealing with some particular topic, which appear to be at variance with other statements, occurring in other contexts, which, however, treat of precisely the same topic. That sometimes such parallel statements are so seriously divergent, as to be incapable of reconciliation, had led the fathers, according to the theory, to the necessity to choose one of the conflicting statements to be identified as the basis of the Islamic practice, to be applied exclusively to the 'derivation' of the doctrine, and hence to ignore the other, in its entirety.<sup>1</sup> Nor need the ancient Muslim scholars be criticised for having adopted this procedure, since God, in His Holy Book, and the prophet of God, in his inspired Sunna, and the Companions after the prophet, are all alleged to have testified to the legitimacy of the principle.

To regularise the unavoidable choice between any two conflicting statements, only one of which is to be identified as the source, the theory of abrogation, as we have seen, decrees that the preference, in every instance, had been given by the fuqahā<sup>2</sup> to that ruling, which they had ascertained /

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1. Shāfi'ī, Ikh. p.253: "That which is later abrogates the earlier, if it differs from it."



ascertained to be the later in the date of its revelation. "Conflict and contradiction between the Qur'ān source and the Sunna source is impossible, since they are the marks of fallibility, which obviously cannot be posited of God Almighty. Such conflict comes about solely on account of our ignorance of the relative dates, which makes it impossible for us to distinguish between the nāsikh and the mansūkh. But, given knowledge of the relative dates, opposition between them can in no wise occur, since the later is the nāsikh of the earlier. Thus, our primary task is to determine the dating, without knowledge of which, conflict will obtain, although only as far as we are concerned, since it simply cannot happen that there should be conflict in God's utterance."<sup>1</sup> The theoretical necessity for documentation purposes to determine relative dating goes therefore very far to explain the Muslim cultivation of historical and biographical sciences, and should provide ample warning against too trusting an attitude to any Muslim observations on dating, whether in the form of the isnād of the ḥadīth, or of the 'occasion of the revelation' of any particular statement in the Qur'ān.

The theory of abrogation itself, whose origins might appear to lie in a concept of development, and which might thus appear, superficially, to impute mutability to the divine /

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1. Sarakhsī, Uṣūl, II, p.12.

divine will, is clearly attended with the gravest metaphysical or theological implications. Of these, the Muslims showed themselves fully aware, and, hence, it should not be conceived, as some western apologists appear to imagine, that merely to mention these problems will cause the entire structure of the theory to come crashing to the ground.<sup>1</sup> The whole theory pre-dates Islām and the original solutions to these problems having been developed elsewhere were then taken over into Islam and added to the scholars' armoury. Furthermore, and more interestingly, the Muslims clearly did not choose to incur, in their turn, such potentially embarrassing theoretical liabilities, save on the basis of evidence, in their view, so compelling, as to override such metaphysical scruples as might be apprehended.

The intellectual difficulties, we shall have, in course, to take note of, but, as the original field within Islam of the genesis, application and elaboration of the Islamic principles of 'naskh' was thought to lie in the legal sciences, where they certainly achieved their widest discussion, it is proper, for the present, to defer their consideration and resolution, in other fields of scholarly endeavour, /

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1. Sweetman: Islam and Christian Theology, Lutterworth Press, London, 1945-67, pt.I, vol.2, pp.137 ff. It ill becomes a Christian apologist to point out these difficulties to the Muslims!

endeavour, addressing our attention, in the first instance, to two concrete historical questions:

- (i) How did these principles of abrogation, in the Muslim view, originate within the context of the elaboration of the legal sciences?
- (ii) What was the nature of that compelling evidence on which unhesitating acceptance of these principles was thought to rest?

Before proceeding, however, to these enquiries, it remains, for reasons of clarity, first to distinguish two aspects of the methodological principle, which might conveniently be referred to as, respectively,

- (a) the general theory of abrogation, and
- (b) the special theories of abrogation.

The definition, and the practical application of the general theory are neatly summarised by 'Abū 'Abdallāh Muḥammad b. Ḥazm:<sup>1</sup> "This branch of science is one of the indispensable complements to ijtihād, since the main prop of ijtihād is the knowledge of what has been handed down to us - an integral part of which is the knowledge of the nāsikh and the mansūkh. The handling of traditional reports, as they stand, is easy, and to assume the burden of their charge is not difficult. The difficulty lies in the techniques of deriving legal principles from the body of the documents. Part of the art of this type of investigation ... is the determination of the earlier and the later of two situations!"

The /

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1. K. fī ma'rifat al nāsikh wa al mansūkh, pr. on margin of Tafsīr al Jelalain, Eissa al Bāb al Ḥalabī, Cairo, 1924-1342, pt.II, p.149. The attribution of this work is in fact doubtful. cf. al Hamdhānī, K. al I'tibār, p.4.

The twin keys to the knowledge of the divine revelation, in its final form,<sup>1</sup> are thus, the knowledge of the documents which have been handed down; and the discrimination, within the body of the documents, of the later from the earlier statement. For °Abū °Abdallāh, our knowledge, both that the principle of 'naskh' has been in operation throughout the history of the Islamic revelation, and of the precise loci of its operation, is, as for all scholars engaged in this field of activity, derived from, and guaranteed by our knowledge of what has been handed down - the Tradition, in its broadest sense, sc. both the Qur°ān tradition, and the extra-Qur°ānic tradition, the Sunna - in a word, by everything that has come down from the earlier generations of the Muslims.<sup>2</sup>

Western scholarship, hitherto, when touching on these Muslim theories of abrogation, has unnecessarily confined its attention to only one aspect of the whole principle, and has thus considered only one element - the question of abrogation in /

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1. Zuhri, who is credited with a book on al nāsikh wa al mansūkh is said to have uttered the following dictum: man lam ya°lam al nāsikh wa al mansūkh khalaṭ fil dīn. vide: Ja°barī, op.cit., fol.4.
  2. cf. Shams al Dīn °Abū Muḥammad b. °Aḥmed al Mawṣalī, K. Ṣafwat al Rāsikh fī °ilm al mansūkh wa al nāsikh, Taimūr coll. Tafsīr No.225 - Shurūṭ al naskh:- "minḥa al ta°akhur: wa huwa °an yakūn al nāsikh muta°akhiran °an al mansūkh wa lā yu°raf dhālik °illā bi mujarrad al naql faqat."

in the Qur'ān.<sup>1</sup> This has, in the main, led to a failure to understand that it is in the very unity of the undifferentiated Tradition that the solution to many otherwise intractable problems is perhaps to be sought. For the purposes of the present enquiry, it is important to bear in mind constantly, that it would be dangerously misleading to separate artificially the Qur'ānic from the extra-Qur'ānic component of the Tradition, and to treat them as if to the research workers of that stage of Muslim scholarship within which the theories of 'al nāsikh wa al mansūkh' were originated and given their first elaboration, they represented two recognisably distinct streams of evidentiary materials. This is not only an unhistorical oversimplification, it is also unhelpful, since it obscures the reasoning processes of those scholars, perhaps even distorts them, and raises unnecessary psychological barriers to our own comprehension of the techniques they had developed and brought to bear upon the problems presented by their 'sources'. As it may be necessary for our purposes of analysis, occasionally, to separate our consideration of the theories of abrogation, in their application to the Qur'ān tradition, from our consideration of the theories in their application to the 'Sunna' tradition, so also, it was necessary, within Islam, and usually /

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1. Nöldeke, GdQ.pt.I, p.234-56. cf. R.Bell, An Introduction to the Qur'ān, pp.99-100. cf. Blachère, Intro. p.17.

usually, for the same reasons of analysis, as also for pedagogical reasons, to treat separately of these complementary aspects of a single principle. It would be unfortunate if we were therefore misled, as Islamic scholars became misled, by our own investigatory procedures, into supposing that we were examining two independent phenomena, or into facile judgments, based upon a too complaisant acceptance of Muslim reports, that the application of the theory of abrogation in one field was but the natural development of its earlier successful employment in another.<sup>1</sup> We must constantly remind ourselves that we have but elected, merely for our own mental convenience, to investigate, the one apart from the other, the two aspects of what is, demonstrably a single methodological technique. If we would properly understand the procedures adopted by the scholars of the second and third Islamic centuries, we must be prepared to concede that where they separate these aspects of the discussion, this is because, usually, they, like ourselves, have simply found it more convenient to do so. We ought to guard against any inclination on our own part, to draw from such mechanical procedures, premature conclusions, unwarranted by other support evidence, about Islamic /

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1. cf. Nöldeke GdQ. pt.I, p.54, ftnote 3. "Vom Qur'ān aus ist diese Vorstellung dann auch auf Ḥadīthe angewandt worden."

Islamic methodological theories, especially where no explicit statement of such theory is advanced.

Early attempts by Muslims themselves to impose a clear formal distinction between the Qur'ānic and the extra-Qur'ānic elements in the Tradition, may, indeed, appear to be discernible. These indications offer valuable clues to the successive steps in the internal Muslim discussions, and, indeed, one such attempt may possibly be datable to the first half of the first century, although, it seems more likely, that like so much material in Muslim sources, this represents a backward projection of a later generation's quarrels.<sup>1</sup> With the literature of the second century, we are on harder ground, and evidence is not lacking that, at an early stage in the development of Muslim opinions, some groups adopted a fundamentalist stance, and, mistrusting the 'Sunna', refused to accept as binding all statements not found in the texts of the Qur'ān. There are, of course, fine gradations of opinion on these matters, and the range of views is illustrated by Shāfi'ī's reports.<sup>2</sup> One group, arguing, that the prophet, quā prophet, had legislative 'carte blanche', recognise the 'sunna' as a body of material independent /

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1. Minqarī, Waq'at Siffīn, pp.510 and 515.

2. Ris. p.16.

independent of the Qur'ān, self-subsisting, and equally sovereign with it, especially on matters on which the Qur'ān is silent. Another group, on the contrary, would not accept a sunna on any matter not previously adumbrated in the Qur'ān<sup>1</sup> -(i.e. the only ḥadīths they are prepared to countenance, are 'tafsīr-ḥadīths'). A third more rigorous opinion rejects, out of hand, all sunnas on matters not explicitly mentioned in the Qur'ān.<sup>2</sup> The first group can be recognised as 'aḥl al ḥadīth', and the last group might perhaps with justice be thought of as 'aḥl al Qur'ān', vigilant against any attempt to introduce, from whatever source, additions to the provisions contained in the Book of God. Diversity of opinion of the sort alluded to here by Shāfi'ī, lies at the very point of emergence of the theories of 'al nāsikh wa al mansūkh'. Some of the opinions reviewed by Shāfi'ī represent, for the later scholarship, such an uncharacteristic attitude to the 'sources' that it might be thought to be of the highest historical value to attempt to date and to locate geographically the differing views, with some precision. It seems, however, doubtful that this will be possible, in the present state of our knowledge, and, fortunately, for the immediate purposes of our present enquiry, it may not even be necessary to attempt more /

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1. laḥā aḥl al ḥadīth fīl kitāb.

2. laisa fīhi nuṣṣ kitāb.



more than a general stratification of attitudes. The reason for such hesitation is partly the custom of the scholars to attribute doctrines, to which they are themselves opposed, to groups, whose very name raises a shudder of horror in Muslim breasts for reasons unconnected with those doctrines, as such, e.g. the Khawārij and the Mu'tazila are both represented as opponents of various aspects of the discussions on Naskh, see below (p.259). One such purported attempt to resist the growing demands made for the evidentiary claims of extra-Qur'ānic materials is documented in the ḥadīth literature:

Sufyān b. °Uyaina<sup>1</sup> - Sālim Abū al Naḍr - whose patron was °Umar b. °Ubaidallah, and who heard °Ubaidallah b. °Abū Rāfi', from the latter's father, report that the prophet had said: "Let me find no one of you reclining on his couch, and, when confronted with an order of prohibition or of permission from me, saying: 'I do not know - (sc. whether this is binding or not.) We will follow only what we find in the Book of God.' "

Mūsā b. Dā'ūd<sup>2</sup> - ibn al Mubārak - Ma'mar - °Alī b. Zeid - °Abū Naḍra, "We were at °Imrān b. Ḥuṣein's, and those present were exchanging ḥadīths, when a man said: 'Enough of this! Bring us the Book of God!' To this, °Imrān replied: 'You are a fool! Do you find the ritual prayer explained /

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1. ibn Māja, Sunan, Ta'zīm Ḥadīth Rasūl allāh, No.2.

2. Muḥammad b. Mūsā b. Ḥazim al Hamadhānī, K. al i'tibār, p.24-5. cf. Baron, op.cit.vol.V, p.181... "the oral Torah, which is the explanation of the written Torah."

explained in detail (mufassara) in the Book of God? Or the Fast in detail? (mufassar). On such matters, the Qur'ān speaks in a general way, and it is the Sunna which clarifies the details (tufassir).'

The ḥadīths, the second of which is dependent upon the first, which it expands upon, and whose drift it elucidates, are both redolent of the propaganda of 'ahl al ḥadīth', who wore down and broke the resistance of the ancient schools against the rising flood of spurious traditions from the companions and the prophet, which had been sent into circulation by the traditionists who had the deliberate aim of countering the ancient doctrines, and of affecting the outcome of uncompleted legal discussions,<sup>1</sup> and who are here seen as turning their attack upon those who would seek to reject a sunna by arguing the sufficiency of the Qur'ānic revelation. The first of the ḥadīths presupposes the assumptions of the later traditionists, sc. that the production of a decision, purporting to be traced back to the prophet will automatically decide the course of the discussion, by diverting it in the direction of the prophet's alleged opinion, and further purports to document this doctrine by attributing these very assumptions to the prophet himself. The report, in short, representing not a discussion of positive law, but of legal theory, is clearly typical /

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1. cf. Schacht, op.cit. p.80.

typical of a secondary stage of development. Opposition views of the kind alluded to in the edited discussions represented in these ḥadīths, which would appear to seek to distinguish the Qurʾānic from the non-Qurʾānic component of the Tradition - which would, in fine, counter extra-Qurʾānic 'evidence', with Qurʾānic evidence, in the processes of the 'definition' of Islam - (more properly, for the purposes of the documentation of the existing doctrine) - are counter to, and thus, later than the explicit doctrine of 'aḥl al ḥadīth', but were finally unsuccessful, owing to the inevitability of the success of the main thesis of the traditionists. These latter, borrowing the techniques of their opponents, embarrassed them by quoting the Qurʾān back at them, in support of the claims of the Sunna. This type of discussion, as we shall see hereafter, was still unresolved as late as Shāfiʿī's day.

The first of our two ḥadīths came to be improved upon in the version quoted by ʾAbū ʾAbdallāh:<sup>1</sup> Miqdād b. Maʿdī Karib - the prophet said: "I have been given the Qurʾān and its like." This he repeated thrice: "at any moment now, a man, seated on his couch - (this means, 'on his sarīr') - will say: 'Keep to the Qurʾān; whatever you find to be declared lawful there, consider it to be lawful, and whatever /

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1. op.cit. p.151.

whatever you find to be declared unlawful there, then consider it to be unlawful.' "

Compare this with the ibn Māja version:<sup>1</sup> Miqdād b. Ma'dī Karib reported that the Messenger of God said: "It will not be long before a man, lolling on his couch will be informed of one of my ḥadīths, and retort: 'There is between us and you, the Book of God'<sup>2</sup> - what we find in it to be lawful, we shall deem to be lawful; what we find in it to be unlawful, we shall deem to be unlawful.' " Yet, what the Messenger of God declared unlawful is like what God declared to be unlawful.

The apologetic approach of the traditionists is even clearer in ibn Māja's:<sup>3</sup> "Let me not hear one of you, <sup>h</sup>esconced in his couch, and when informed of a ḥadīth from me, say: 'Recite a Qur'ān'. Whatever good doctrine is enunciated, I originated it!"

The tell-tale use of the word 'mithl' in these versions, alerts us to the use made by 'aḥl al ḥadīth' of Qur'ānic texts /

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1. bāb Ta'zīm Ḥadīth Rasūl Allāh, No.1.

2. cf. Minqarī, op.cit. p.478.

3. op.cit. No.10. This is directly contradicted by: bāb al Taghlīz fī ta'ammud al kidhb, No.5. Both ḥadīths are, however, attributed to 'Abū Huraira.

texts in evidence to support their thesis. The reference is to Q.II,106: mā nansakh min ʿāya ʿaw nunsī hā naʿtī bi khairin minhā ʿaw mithlihā, the full exploitation of which will be examined in detail below (see p.330). The dispute underlying the use of these ḥadīths, is thus, in reality, concerned with the delicate technical question of whether the Sunna can abrogate the Qurʾān.

This is borne out by the ḥadīth, as it appears in Hamadhānī,<sup>1</sup> where we are ushered into the very midst of a typical methodological squabble: Miqdād b. Maʿdī Karib said: "The Messenger of God prohibited certain things, at the time of the conquest of Khaibar; then he said: 'There will soon come a time, when a man, 'esconced in his couch will be informed of a ḥadīth from me, and will say: 'There is between us and you the Book of God. What we find to be declared unlawful there, we shall deem to be unlawful. What we find to be declared lawful there, we shall deem to be lawful.' " But, what the Messenger of God prohibited, is like what God has prohibited!

The solicitude for dating, typical of a discussion on 'naskh' will be apparent in the ḥadīth. What will not be obvious is that the ḥadīth is part of the apparatus, on the basis of which, the credentials of ʿAbū Huraira, as a favourite /

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1. op.cit. p.24.

favourite musnad of the traditionists, is based, in view of the lateness of his conversion to Islam. The 'unsuccessful' contrary view-point is represented in the formula:<sup>1</sup> "He shall be imām who best recites the Book of God, and whose knowledge of the Book of God goes back furthest in date. If two men be equal in respect of their knowledge of the Book, then he shall be imām whose hejira predated the other's." That this view was dislodged precisely by the doctrine of 'naskh' will be established hereafter.

The curious word 'arīka' is another reference to the Qur'ān,<sup>2</sup> and may have been introduced as a deliberate archaism, as well as to lend an air of verisimilitude to the ḥadīth. That ibn Ḥazm thought it might sound strange in the ears of his fourth century public, is suggested by his providing a gloss.<sup>3</sup> This is, regrettably, not the place to enquire whether the ḥadīth might not also have political overtones.<sup>4</sup> The ḥadīths are thus not simply concerned with separating the Qur'ānic from the extra-Qur'ānic tradition, but /

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1. Abū Daūd al Tayālāsī, Musnad, No.618.

2. Q.XVIII,30; XXXVI,56; LXXVI,13; LXXXIII,23,35.

3. Even more interesting is Shāfi'ī's having to provide a gloss in the second century. Ris. p.15.

4. cf. Naṣr b. Muzāḥim, op.cit. p.478: "Hādha Kitāb Allāh bainanā wa bainakum."

but represent differing attitudes on the relative priority to be accorded to each, in the event of a clash appearing between them. The situation they envisage is typical of the concerns of mid-second century scholarship. The first ḥadīth pre-dates Shāfi'ī - it occurs, and with the same isnād, at p.15 in his Risālah. There is also a second version, a mursal, from Muḥammad al Munkadir. The other ḥadīth, concerning itself with the functional rôle, as this would be regarded within the science of 'uṣūl al fiqh, of alleged statements, or actions of the prophet, on specific matters also mentioned in the Qur'ān, represents an even more advanced, since more detailed type of discussion, on an important point of methodological theory, and, as here formulated, is probably at least contemporary with, and possibly even post-Shāfi'ī, since it betrays an acquaintance with his 'uṣūl theories, and the examples it uses in support of its thesis, are among those employed by Shāfi'ī himself.<sup>1</sup>

It is the very completeness of the failure of the anti-Sunna position, which makes it so very difficult, generally, to identify the opponents of the traditionists and to chronicle their activities. For they have sunk, with hardly a trace, in the noisy literature which preserves for us /

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1. Ris. p.5; Umm, VII, p.271.

us only a partial, and heavily edited, documentation of squabbles that once raged fiercely among the emerging opinions of Islam, and such infrequent references to them, as we do come across in the polemic writings of their vanquishers, are too vague and too anonymous to enable us to do more than dimly perceive the outlines of struggles waged, and lost in a remote distance. This does not, however, prevent us from speaking profitably of the several trends discernible. In the light of the view which ultimately prevailed, therefore, our study of the phenomena of abrogation in Islam must take account of two sets of constituent documents - the Qur'ān, and the extra-Qur'ānic sunna - within a context of prolonged disputes on the question of the evidentiary status of the one relative to the other.<sup>1</sup>

By appeal to the general theory of abrogation, the legal and exegetical scholars were thought to have been enabled, in their handling of the Tradition, to pick and choose their several ways through the labyrinths of not-seldom conflicting materials which, in the Muslim view of things, /

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1. vide the curious ḥadīth, Mus. Bāb: Tark al waṣīyya, last in bāb, in which Muḥammad's alleged dying wish to provide his community with a book, possessing which they would never stray, was thwarted by ʿUmar. The corresponding ḥadīth in Buchārī lacks this mention of ʿUmar. (K. al Jihād).



things, they had inherited, in an undifferentiated mass from the foregoing generations. That they were thus able to select as relevant to their supposed task of codifying the shari'ca certain elements from among this vast corpus of materials, accumulated over the years, while ignoring, or rejecting others, without exposing themselves to charges of arbitrariness, and without apparent prejudice to the consistency of their claims that the conclusions they were publishing, in the course of their researches, and acting upon, in the course of their practice, were demonstrably based upon the eternal verities enshrined in the inherited documents of the Islamic revelation - the Qur'ān and the Sunna - was thought to have been in no small measure due to the sanction of the general theory of 'al nāsikh wa al mansūkh'.

That individual scholars, nonetheless, arrived at differing conclusions, although all were ostensibly working from the same 'sources' was likewise, explicable, in the Muslim view, at least in part, in terms of the differences between the special theories of abrogation which it was assumed had been devised by the scholars to serve as tools for the working of the raw materials extracted from their sources. These differences were apparent, not only between the adherents of rival schools, but even between scholars working within the same school, at different periods.

a) /

- a) Mekki: "Here also there is ikhtilāf and the followers of Mālik are disagreed. 'Abu'l Faraj and other Mālikīs thought that the sunna could abrogate the Qur'ān. On the same question, Mālik had found the nāsikh in the Qur'ān." (K. al Nāsikh wa al Mansūkh, ms. Istanbul, Shahīd 'Ali, 305.)
- b) Baghdādī: (ms. Berlin, Pet.555): reports disagreement among the Shāfi'īyya. Some of them thought the abrogation of the Qur'ān by the Sunna intellectually feasible only not having found an instance in which this had occurred, would not declare that it had historically happened. cf. however, al Ghazzālī, *infra*, p. 379-80.

By the practical application of the general theory of 'naskh' is meant, that if within the body of the source documents that have been handed down, the scholar was confronted with two apparently conflicting statements on one and the same point of legal or ritual regulation, his first concern was thought to have been to enquire closely into the total meaning of each statement. Skilful exegetical techniques could remove many an apparent difficulty.<sup>1</sup> If satisfied /

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1. A striking example, Sarakhsī, 'Uṣūl, II, p.20. cf. Dr. Fu'ād Tawfīq Ṣidqī in al Manār, 1912, p.172. "The occurrence of naskh in the Qur'ān would be contrary to the expectation aroused by its revelation. Thus where Tafsīr is capable of circumventing an assumption of naskh, resort to such tafsīr is obligatory. And what āya in the Qur'ān is incapable of Tafsīr?"

satisfied, however, that even exegesis could not solve his problem, and that the two statements really did treat of precisely the same aspect of a single obligation, he must continue to prosecute his exegetical endeavours, with the aim of achieving an interpretation which would permit of the reconciliation, and thus, of the application of both regulations. For, since each came from God, neither was lightly to be set aside.<sup>1</sup> Where any degree of reconciliation, however slight, was feasible, the principle of al nāsikh wa al mansūkh might not be invoked.<sup>2</sup> This was enshrined in the tag: al Jam' yamna' al naskh. Should reconciliation prove, however, beyond the wit of scholarship, and providing the two statements really were irreconcilable, to the point of mutual exclusion, in all respects, and, hence, impossible of simultaneous implementation, it became the scholar's responsibility to enquire minutely into the circumstances of the ascertained enunciation of each of the parallel, but incompatible enactments, in order that their relative dates might be determined.<sup>3</sup> It was this demand which was met by the institution of yet another science -

°asbāb /

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1. Itqān, vol.II, p.40.

2. Hamadhānī, op.cit. p.7, l.14. Ja'barī, fol.5.

3. vide Umm, I, p.108, for an example of close examination of relative dates for this very purpose.

°asbāb al nuzūl.<sup>1</sup> The ancient scholar was thus thought, in the light of these theories, to have been bound, by the principle of 'al nāsikh wa al mansūkh', to pronounce in favour of the sole validity of the later of the two statements - the nāsikh - abandoning the earlier - the mansūkh - on the grounds that it had clearly been seen to have been superseded.<sup>2</sup>

Shāfi'ī illustrates, in simple form, the application of these general principles in each of the following cases:

Q.VIII,65 reads: "Oh prophet! incite the believers to fighting. If there be of you twenty patient believers, they will overcome two hundred. If there be of you one hundred they will overcome one thousand of those who have disbelieved, for that they do not understand."

The immediately following verse 66 reads, however: "Now God has alleviated your burden, knowing that there is weakness in you; if there should be of you one hundred, patient (believers) they will overcome two hundred; and if there should be of you one thousand, they will overcome two thousand, by permission of God. God is with the patient."

Shāfi'ī comments:<sup>3</sup> Then God made it clear, in His Book /

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1. Itqān, I, p.12, "wa min fawā'id ma'rifat dhālik [ma'rifat al mekkī min al medanī min al qur'ān] al 'ilm bil muta'ākhir fa yakūn nāsikhan."

2. Sarakhsī, °Uṣūl, pt.II, p.20.

3. Risālah, p.20.

Book, that He had relieved the believers of the obligation to fight the unbelievers in the ratio of one against ten, and had imposed upon them the obligation to fight, one against two.

ibn ʿAbbās said: 'When the first verse was revealed, it was enjoined upon them that twenty should not flee from two hundred; subsequently, God revealed the second verse, by which it was enjoined that one hundred should not flee from two hundred.'

"The matter", concludes Shāfiʿī, "is, if God please, as ibn ʿAbbās has said, and God has made it explicit in the verse itself, which requires no exegesis."

It is, of course, worth drawing attention here, to the point that Shāfiʿī employed, as his whole apparatus on which to base his conclusion, not only the two allegedly conflicting Qurʾān statements, but also the exegesis of these statements embodied in the tafsīr-hadīths attributed to ibn ʿAbbās. That both these elements taken together, constituted for Shāfiʿī the Tradition, emerges from his remark that 'the verse requires no exegesis'. The Zāhirī scholar, ibn Ḥazm, a fierce opponent of the above conclusion, has this to say of it:<sup>1</sup> "Some have alleged concerning God's words: 'Now God has /

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1. K. al ʾIhkām fī ʾUṣūl al ʾaḥkām, pt.IV, p.462.

has alleviated your burden': that they abrogated His words: 'If there should be of you twenty patient (believers) they will overcome two hundred': This is an error, since this view is not an *ḥijma*, nor is there any indication of an abrogation. The verses concern the obligation to go out against the mushriks; but, when the two forces meet, it is not permissible for any Muslim to turn his back upon the entire mushrik population of the world. Is there any mention in the verse of fleeing? The verse merely announces, in advance, (future) victory, conditional upon patience, and promises divine assistance to the steadfast."

It was, of course, naturally, not open to either of these eminent scholars to see these verses in the light of Muḥammad's campaign to incite his followers to secure their political position by resort to violence against their opponents, and to circumvent their natural reluctance to fight, based upon a prudent assessment of their own relative numerical inferiority, and reinforced, in certain cases, by ties of blood or political connection. We need not treat Shāfi'ī's use of these verses as seriously as ibn Ḥazm did. For him they did not support any specific doctrine, but in his *Risālah*, and other works, they are merely part of the highly elaborate apparatus he exploits, in order to establish the fact that abrogation has affected, and can be shown to have /

have affected the texts of the Qur<sup>ān</sup>.

The following example is similarly adduced by him to establish the fact of the occurrence of the abrogation phenomenon within the documents of the Sunna.

Mālik<sup>1</sup> - ibn Shihāb - ʿAnas b. Mālik: "The prophet mounted a horse, and was thrown, his right side being grazed. He prayed one of the ritual prayers, seated, and we prayed behind him, likewise, seated. When he turned round, after the prayer, he said: 'The imām has been appointed that the lead might be taken from him. When he prays standing, then do you, likewise, pray standing. When he prostrates himself, prostrate yourselves. When he raises his head, raise your heads; and when he says: 'May God hearken to him who praises him', respond: 'Our Lord art Thou, and to Thee be praise.' When he prays seated, then pray, likewise, everyone of you, seated."

Mālik - Hishām b. ʿUrwa - his father: "The Messenger of God came out, during his illness, and went over to ʿAbū Bakr, who was standing, leading the people in the ritual prayer.

ʿAbū Bakr moved back, but the Messenger gestured that he should continue, as he was. The Messenger of God, then sat at /

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1. Risālah, p.36.

at the side of ʿAbū Bakr, who was praying, taking his lead from the prayer of the Messenger of God, and the people prayed, taking their lead from ʿAbū Bakr."

"Whereas the praying of the prophet", comments Shāfiʿī, "during his final illness (sic) was performed, in a sitting position, while the men behind him, prayed standing, we find in this an indication that his having commanded the people to sit, at the time of his having fallen from his horse, preceded the illness which led to his death; and his performing the prayer during his final illness, seated, whereas the people behind him prayed standing, is the nāsikh to the regulation that the men should sit, in imitation of the sitting of their imām."

The two ḥadīths are clearly no more than the discussion of the rôle of the imām, in general catechism-like terms,<sup>1</sup> only Shāfiʿī seeing in the second example he quotes some evidence for abrogation. Shāfiʿī has another version of the first ḥadīth<sup>2</sup> from ʿĀʾisha: "The Messenger of God prayed, in /

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1. cf. Mālik: K. al Ṣalāt: bāb: mā yafʿal man rafʿa raʿsa hu qabl al imām. "innamā juʿil al-imām li yuʿtama bihi fa lā takhtalifū ʿalaihi." The last words I take to mean: "Do not act otherwise than he does."

2. Ris. loc. cit.



in his house, once when he was ailing. He prayed seated. Some of those behind him prayed standing, and he gestured that they should sit. When he turned round, at the conclusion of the prayer, he said: 'The imām has been appointed simply that the lead might be taken from him. When he prostrates himself, prostrate yourselves; when he raises his head, raise your heads, and when he sits, at prayer, then you should pray seated.' "

Shāfi'ī states that this is the same as the 'Anas version, although, when 'Anas' ḥadīth is elucidated, it is, he asserts, more explicit. An interesting point of comparison between the two versions is that for: "the prophet prayed seated, and we prayed behind him, seated": the 'Anas version uses the root q ° d, the 'Ā'isha version, the root j l s. A parallel 'Anas version given by Ṭayālāsī,<sup>1</sup> for : "and when he prays, seated, then pray, likewise, all of you, seated": has the root q ° d, whereas, Shāfi'ī, at this point, has j l s.<sup>2</sup>

The 'Ā'isha version, in Shāfi'ī uses the root j l s exclusively throughout the report. The root does not however, /

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1. Musnad, No. 2090.

2. cf. Shāfi'ī: loc. cit. wa 'idhā ṣallā jālisān fa ṣallū julūsan 'ajma'ūna. 'Abū Daūd: wa 'idhā ṣallā qā'idān fa ṣallū qu'ūdan 'ajma'īna.

however, occur in the Ṭayālasi<sup>1</sup> version, which employs q ° d throughout. In a second version in Ṭayalasi, from °Abū Huraira,<sup>1</sup> it is inescapably clear that the form of words attributed to the prophet, in all these versions, represents general instructions to a congregation on how they should perform the ritual prayers behind an imām, and it is therefore suggested that the Shāfi°ī versions originated at a point when the root j l s was beginning to be differentiated for its rôle as a technical liturgical term from the root q ° d. There is no conflict whatever between the °Anas-°Ā°isha versions and the Hishām version of the report, since in the latter, the people's imām was °Abū Bakr. This resolution of the apparent discrepancy between the two versions was not open to Shāfi°ī, for the theoretical consideration that Muḥammad, (for him, the imām par excellence), happened also to be present.<sup>2</sup>

Each of the examples of abrogation he has quoted,  
Shāfi°ī /

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1. No. 2577 - the imām discussed here is not Muḥammad, but any imām.
  2. Umm, VII, p.185, shows that this instance of naskh is inferential: "But that it was abrogated, the men behind him would have sat." He rejects the Mālikī view that °Abū Bakr was the imām on this occasion and characterises their ḥadīth from Rabi°a to this effect as mursal. On the subject, he has more ḥadīths than they.

Shāfi'ī would have us understand, is perfectly straightforward, offering no difficulty to the scholar. Of the first example, he alleged that exegesis was unnecessary. It is clear that the subject-matter in each verse was alleged to be identical: in the first, the number of unbelievers against whom the believer was to be required to stand fast; in verse 65 that number was ten; in verse 66 it had been reduced to two. In the second series, the subject was held to be the relation between the actions of the imām, and the actions of those following his lead, in the performance of the ritual prayers. In one statement, if the imām were seated,<sup>1</sup> owing to some indisposition the congregation were to remain seated; in the other, if the imām were seated owing to some indisposition, the congregation should, nevertheless, pray standing. Ten and two are mutually exclusive, as also are sitting and standing. In each of the two examples, furthermore, there is held to be evidence of disparity of date: in the first, this is thought to have been stated explicitly and unequivocally by God's own words: 'Now God has'.....while, in the second, it is hardly less explicit, since one of the two statements makes specific mention of the prophet's illness, when 'Abū Bakr /

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1. Ris. p.36, in the 'Ā'isha version, the words 'wa huwa shākin' have the appearance of being a doctrinal interpolation. This is the version with the technical term 'julūs'.

Bakr was claimed to have led the faithful in the prayer. This we gather, from other evidence, was said to have occurred during the prophet's last illness, a detail Shāfi'ī was quick to seize on. Moreover it is argued in the Qur'ānic example, the reason for the variation introduced into the enactment by the revelation of the later of the two statements, has likewise been explicitly stated: 'God has alleviated your burden' .....

Thus, in both cases alike, no difficulty was thought to have faced the scholar: the texts, it is urged, treated of a single topic, they are in conflict, and there is evidence on their relative dating. The scholar was bound, in each instance, to apply exclusively the later of the two texts, declaring, as we have seen Shāfi'ī declare, that it is clearly the nāsikh of the earlier - the mansūkh - text.

The word 'now' in v.66 of the first series, may certainly be argued with Shāfi'ī to be in contrast with the concept 'heretofore', i.e. 'now' as opposed to 'then'; i.e. from henceforward. It may equally, with ibn Ḥazm, be argued to be in contrast with the concept, 'hereafter', i.e. 'for now', for the time being, for the present. That Shāfi'ī was hypnotized by the presence in the verse of the word /

word 'alleviated'<sup>1</sup> which, as we shall show, had, by his day, become a quasi-technical term, synonymous with the technical term 'naskh' is certain, given the consideration that this had led him to overlook the wider implications of his conclusion. If 'now' is to be thought of as introducing a regulation in alleviation of a prior regulation, then what the Qur'ānic verse is stating is that God has now introduced His second regulation, having now realised what He had not realised on the occasion of the previous revelation: viz. the current weakness of the Muslims. The second revelation would thus indicate development in the divine knowledge, which Muslim scholars are unanimously of the view is not only a logical absurdity, but frank unbelief.<sup>2</sup> Our conclusion is thus justified that only a mind bent upon finding documentary evidence of the occurrence of abrogation in the Qur'ān texts quoted, and informed of the technical vocabulary of the theory of 'naskh' would have construed the word 'now' in the sense in which Shāfi'ī interpreted it. Shāfi'ī's choice of examples may therefore, in this instance, be thought /

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1. i.e. Takhfīf. cf. Umm, I, p.109. "God used to reveal His impositions to His prophet, one after another, imposing upon him what He had not previously required. He would likewise alleviate some impositions previously revealed."
  2. Ghazzālī, K. al Mustasfa min 'ilm al 'uṣūl, 1st impr. al 'Amiriyya Press, Bulāq, 1322, v.I, p.110.

thought to have been, for him, uncharacteristically inept and unfortunate. But, taking his general argument, no other course was open to him, nor to post-Shāfi'ī scholarship, than to posit the recognition by their predecessors of such operation of the phenomena of abrogation, given the then state of the doctrine, and its relation to its alleged sources. The alternative would have to have been to concede that the divine revelations, (as the divine revelations were now defined),<sup>1</sup> admitted of self-contradiction.

What is instructive about these examples taken from Shāfi'ī's armoury of evidences that we have just been examining, is that his desperate need to adduce instances of the operation of the phenomena of abrogation, in order to establish the fact of abrogation, (a rationalisation, in the absence of which, we would indeed, be faced with the apparent self-contradiction of the divine revelations, and in consequence, would be left, as he argues, with no means to achieve an assured knowledge of the divine will), is just that in each of these cases, his theoretical parti pris has induced him to import into the texts a non-existent element of conflict. A typical cliché of Shāfi'ī's argument technique is to declare that, were we unable to discover in the Tradition some indication pointing to a sure distinction between /

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1. i.e. Qur'ān, Sunna and Sharī'a.

between two conflicting revealed statements,<sup>1</sup> this would lead us into doubt, confusion and anxiety, and would be contrary, in turn to the express statement of God in His Holy Book, that He has not left Mankind without guidance.<sup>2</sup> Another such cliché is his statement that without such an indication from the Tradition, the scholars would have in many cases applied the regulation revealed in the Qur'ān!<sup>3</sup> If a scholar of the eminence of ibn Ḥazm, who does not doubt the objective reality of the phenomena of abrogation, can consider the two verses of Sūra VIII, without being convinced of the operation of abrogation at that point in the divine revelation, the most profitable course we can pursue, in this enquiry may well be to ignore the alleged objective reality of the phenomenon in every single instance in which it has been appealed to by Muslim scholarship, with the aim of rationalising alleged conflict. As the scholars insist, such conflict of sources is invariably illusory. Proceeding in this way, it will become apparent that the 'phenomenality' of abrogation dissolves, leaving no historically /

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1. Ris. p.13; p.16.

2. Ris. p.5. The tafsīr of the word 'ṣudān' is secondary to theoretical theological positions on the relations between revelation and reason.

3. cf. Risālah, p.13. The doctrine, in such cases, had established conclusions at variance with the statements of the Qur'ān.

cally objective instance of the operation of abrogation within Islam. All that will then remain will be conflict of 'sources', to be confidently identified as the origin of the entire structure of theory.

A modern opponent of the alleged operation of naskh, at least in the Qur'ān source, asks some very pertinent questions: "That there is abrogation in the Qur'ān, is not an article of Muslim faith, but is merely a technique of the mufasssirs, and generally, had its rise in the first century. When one of them was faced with a problem in the understanding of certain verses, between which there subsisted a quasi-conflict, he would grasp at this principle, in order to remove his difficulties. But the interpretation of a verse by a companion is not binding. Were it so, the mass of scholars would not have disagreed with ibn 'Abbās, who was the most learned of the companion-mufasssirs, nor would certain of the companions have rejected the basic principle of naskh itself. 'Ubayy, for example, did not accept the doctrine, and refused to abandon anything he had heard direct from the prophet. The Qur'ān nowhere announces that such and such a verse abrogates such and such another. Nor do the scholars possess an undeniable indication that any one verse is earlier or later than any other, in any of the numerous particular questions they discuss. They merely assert without proof that one verse is later than another.

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We do not know why some verses, in their view are mansūkh, as opposed to being nāsikh, nor how it is possible to distinguish the verse which is the source for obligatory action from that whose ruling has been abandoned, given the absence of such indications in the Book itself. Even more surprising is the absence of a single agreed ḥadīth from the prophet which might be considered a certain documentary provision that verse so and so abrogated verse so and so. Why are they not even agreed on the actual number of verses held to have been abrogated, and why do they abandon their insistence on abrogation in cases where they come to ascertain the absence of real conflict between verses ? " <sup>1</sup>

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1. Dr. Muḥammad Tawfīq Ṣidqī : al Manār, 1912, pp. 150 ff.  
for °Ubayy see further: pp. 87-9; 124; 127; 130; 396-7; 411.

## CHAPTER THREE

The special theories of abrogation:

The examples selected by Shāfi'ī to illustrate the occurrence of the phenomena of abrogation, which we studied in the foregoing section, represent something other than merely the application to specific cases of the general theory of abrogation.

It may have been observed, in each of his two series, that not only were the two allegedly conflicting texts thought to refer to the same topic, but that, in each case, each pair of texts was quoted from a common source. In the first series, both were statements adduced from the Qur'ān; while in the second, both came from the ḥadīth, as testifying to conflict in the Sunna. Shāfi'ī's examples represent, in other words, one of the special theories of abrogation - sc. that the Qur'ān and the Sunna, being of essentially differing function, the principle of 'al nāsikh wa al mansūkh' should operate exclusively within the documents of each source, without reference to the documents of the other. This at any rate is the theory. In its more usual formulation, this special theory of abrogation states, not merely that the Qur'ān, on occasion, abrogates the Qur'ān, but that only /

only the Qur'ān may abrogate the Qur'ān. The corollary theory states that not only does the Sunna, on occasion, abrogate the Sunna, but that only the Sunna may abrogate the Sunna.<sup>1</sup> The two-fold nature of both statements is clear, and their complexity points, in the Muslim view, to a late origin within the context of a general discussion, on the status, relative the one to the other, to be accorded to the Qur'ānic source and the extra-Qur'ānic source materials, within a tradition, now, apparently, consciously regarded as bi-lateral, rather than unitary.

Two stages within the development of that discussion are discernible: that the Qur'ān and the Sunna are each susceptible to abrogation. This broad principle Shāfi'ī is concerned (but only incidentally) to establish in his Risālah on the basis of secure Qur'ānic 'proofs' against some anonymous opposition, although it is clear from the composition, by his contemporary 'Abū 'Ubaid,<sup>2</sup> of a separate book on the subject of 'al nāsikh wa al mansūkh', that the general principle had originated before Shāfi'ī's day. To judge /

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1. Ris., p.17.

2. 'Abū 'Ubaid al Qāsim b. Sallām. His 'Nāsikh wa al Mansūkh' survives, in an Istanbul ms. Aḥmed III, No.143. Its survival was unknown to Brockelmann. The work is mentioned by Sezgin but with no reference to its whereabouts. vide F. Sezgin, Geschichte des Arabischen Schrifttums, E. J. Brill, Leiden, 1967, v.I, p.48.

judge however from the quality of Shāfi'ī's definitions and arguments, it could not have originated much before his time.<sup>1</sup> He is, however, rather more concerned to establish his special theory of abrogation, which he appears to have developed for the first time consistently, and which, in recognition of this its first unambiguous formulation has, ever since, been linked with his name. This Shāfi'ite special theory provides us, therefore, with one useful starting-point for our enquiries. Being by nature, a negative statement, it implies reaction against a positive, itself the expression of an earlier, looser treatment of the source documents. Whereas there is the appearance, at least since the beginning of the literary stage of the discussion, of a tolerable consensus on the general theory, there has never existed unanimity among the Muslims at this level of the special theories. al Nahḥās,<sup>2</sup> (d. 338 A.H.) for example, lists, in his introduction, five views:

- i) both Qur'ān and Sunna abrogate Qur'ān. This theory he ascribes to 'the Kūfans'. (sc. the Ḥanafiyya).
- ii) Qur'ān abrogates Qur'ān; Sunna may not abrogate Qur'ān. This view he ascribes to 'Shāfi'ī and a group who follow him'.
- iii) /

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1. See below pp. 241-3.

2. °Abū Ja°far Muḥd. b. °Aḥmed b. Isma°īl al Ṣaffār. Kitāb al Nāsikh wa al Mansūkh fi al Qur'ān al Kerīm, pub. Zeki Mujāhid (o.o.o.d.) S.O.A.S. SG.V.88.3. Acc. 79821, pp.6-7.

- iii) Sunna abrogates both Qur'ān and Sunna.
- iv) Sunna abrogates Qur'ān; Qur'ān does not abrogate Sunna. (cf. ḥadīths from Hamadhānī, *infra*, p.150 ).
- v) The view he ascribes to Muḥammad b. Shujjā' is apparently a cautious refusal to adopt the restrictions of a consistent doctrine. "Doctrines," he said, "have clashed, and I do not judge one of them by means of the other." This presumably means that the relative status of Qur'ān and Sunna quâ source is to be reviewed in every individual case arising.

If Naḥḥās had seen the connection between theories ii and iv he might have avoided understating Shāfi'ī's position. But the differences he highlights in these theories, expressing the approaches thought to have been adopted in the earliest period when judging of the relative merits of a Qur'ān and a Sunna source, are of a fundamental and far-reaching character, and go far to account, in Muslim eyes, at least in part, for the visible differences in the conclusions that had been reached by the scholars of antiquity.

When, however, compared to the volume of literature that has been devoted to the discussion and vindication of these rival special theories of abrogation - understandably, in view of their critical importance in the eyes of the later generations, in the context of establishing the methodology underlying the derivation, codification and documentation of the minutiae of the inherited law and the cult - relatively /

relatively little attention, has been devoted, and consequently, little fresh thinking has been directed, since the beginning of the literary age, to the evaluation of the general theory. Such lack of discussion might tempt the historian to suppose: not only that the formulation of the general theory was historically prior to the formulation of these special theories, as it is alleged to have been logically prior, but also that the general theory had been accorded widespread acquiescence at an early stage in the development of the discussions on sources within Islam, far in advance of the literary stage, whose documented squabbles over these special theories merely underline the more strongly the absence in the literature of sharp divisions over the general theory. These would appear to be natural and reasonable assumptions; but we must, nonetheless, make certain that they do not carry us beyond the available evidence.

We have noted the existence of a quarrel on the question of the relevance of the alleged Sunna on topics not referred to in the Qur'ān, and of another on the question of the relevance of the Sunna on those matters dealt with in the Qur'ān. There had been some who considered that where the Qur'ān made any statement, this, as a divine revelation, was sufficient. The triumph of the general thesis of the Traditionists had put an end to such disputes, but only to give /

give rise to another and more acute quarrel over the problem of the relative status to be accorded to the Qur'ān and the Sunna in cases where both had a statement to offer on one and the same topic. What is abundantly clear from the demeanour and arguments of Shāfi'ī, a member of the Tradition party, is that his major polemic effort was directed against the view that in all such instances, the ruling of the Qur'ān must prevail. His development of a special theory of abrogation was thus provoked in opposition to the earlier non-technical argument that a relevant Qur'ān rendered a relevant Sunna redundant. This he recognised as the reactionary impulse that it was. Since the Sunna had been the creation of those whose task it had been to furnish the Islamic documentation of those elements of the prevailing doctrine, not adumbrated in the Qur'ān, any appeal back to the Qur'ān now must necessarily represent a threat to the very doctrine itself. Thus, in order to preserve the doctrine, Shāfi'ī was compelled to separate the Sunna source from the Qur'ān source, and to regard the former, where it agreed with the doctrine, as invariably the later of the two statements.<sup>1</sup> This view he defended on the basis /

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1. For a case where the Qur'ān, and not the Sunna, supported the eventual doctrine, vide Ris. pp.26-27 where the Qur'ān abrogates an alleged Sunna on the postponement of the ritual prayers in times of danger.

basis of considerations which he elaborated into a special theory of abrogation, using, as his evidence, certain Qur'ānic statements, the point of which, both he, and all succeeding Islamic scholarship failed to comprehend, although, properly understood, those same verses from the Book might have served as legitimate elements in the construction of a general theory of abrogation, but a general theory which would have borne little resemblance to the general theory actually worked out by the Muslims. The function of the general theory of abrogation was thus to vindicate the individual instances of the alleged phenomenon. If naskh were impossible, it would not occur, argues one of the scholar-theorists.<sup>1</sup> The function of the special theories was partly one of documenting the doctrine, but mainly they were designed to guarantee the preservation of the doctrine. The common impulse which produced both sorts of theories was the recognition of serious conflict between the doctrine and its alleged sources.

### The Science of 'Naskh'

A sense of the consciousness that this particular branch of Islamic science is of a crucial character, is inculcated /

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1. vide Muḥammad b. 'Alī al Ḥāshimī al Ṭabā' ṭabā'ī, Mafātih al wuṣūl fī 'uṣūl fiqh al Shī'a. Alex. B 1031. bāb: al naskh.



inculcated by means of a series of ḥadīths, inserted at the forefront of most of the books devoted to the science of abrogation. Such ḥadīths serve also the incidental purpose of establishing the high antiquity, and thus, in Islamic terms, the authenticity of the science, by projecting its cultivation backwards into the generation of the prophet's oldest, and most confirmed supporters. As °Abū °Abdallāh says, "the reports under this heading are very numerous," and thus he has quoted "only a small selection in order to show the solicitude evinced by the Companions for the science, both in its Qur'ānic and in its Sunna aspects, which are but a single concern".<sup>1</sup> The starting-point of this science for Hibat Allāh is adherence to what has been handed down from the fathers.<sup>2</sup> The works of Goldziher and Schacht, as has already been observed, have taught us to perceive in such procedures, the activities of '°ahl al ḥadīth', and to detect in such documents, the stratification of opinions deposited at the various historical levels. The principle enunciated, commonly, in these introductory ḥadīths is that none may occupy judicial or religious office in the community who is not /

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1. op.cit. p.151. cf. al Hamadhānī, op.cit. p.5.

2. °Abū al Qāsim Hibat Allāh b. Sallāma, °Abū Naṣr (d. 410). K. al Nāsikh wa al Mansūkh, pr. on the margin of °Abū al Ḥassān °Alī b. °Ahmed al Wāhidī, K. °asbāb al Nuzūl, Hindiyya Press, Cairo, 1315, pp.4-5.

not equipped with this indispensable knowledge. Thus, we find in the work of ibn Ḥazm,<sup>1</sup> already noticed, as from °Abū °Abdul Raḥmān al Sulamī: "°Alī passed by a qāḍī, and said: 'Do you know the nāsikh from the mansūkh?' The man replied that he did not, whereupon °Alī said: 'You have lost your soul, and caused others to lose theirs!' " Nahḥās devotes an introductory chapter of his book to such traditions,<sup>2</sup> under the very suggestive title: "stimulating the desire to acquire the knowledge of 'the nāsikh and the mansūkh'." That the desire had to be stimulated by exhortations to imitate the companions, suggests the presence of resistance to acquisition of the science, and fears for its neglect. In one version of the foregoing ḥadīth, Nahḥās, for the person rebuked by °Alī, has a preacher,<sup>3</sup> in place of a judge, and, on admitting, as before, that he did not know the nāsikh from the mansūkh, the man is expelled by °Alī from the mosque, and forbidden to preach there again. Nahḥās gives, in addition, the °Abū °Abdul Raḥmān version, 'You have lost your soul, and caused others to lose theirs!'<sup>4</sup>

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1. op.cit. p.150.

2. p.5.

3. p.5. rajul yukhawwif al nās.

4. p.6.

He has a third variant, in which the hero is no longer ʿAlī, but ʿAbdallāh b. ʿAbbās, who rebukes, not a qādī, but a qāṣṣ.<sup>1</sup> Hibat Allāh preserves yet other forms of the ḥadīth, whose hero is, however, neither ʿAlī nor ibn ʿAbbās, but another ʿAbdallāh - ibn ʿUmar.<sup>2</sup> Such uncertainties in the identification of the central character of the ḥadīths of this category suggest that we do well to be on our guard against taking the stories too literally, and making too much of the authenticity of the information they purport to convey. They do not, however, inspire similar hesitation in the Muslim reader, whose usual reaction to what we should regard as that confusion and contradiction indicative of uncertainty and doubt, is to regard these reports, not as alternative attributions of a single experience, whose hero cannot positively be identified, but as several reiterations of a common experience met with, in historical reality by each of the characters /

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1. p.6. marra ibn ʿAbbās bi qāṣṣ yaʿiẓ. cf. ibidem, rajul muḥaddith.
  2. op.cit. p.7. The man rebuked is named by Hibat Allāh. He was ʿAbdul Raḥmān b. Daʿb - but it is clear that school ʿaṣabiyya is at work here since the man is identified as an associate of ʿAbū Mūsā al ʿAshʿarī. Part of the wording of the report derives from Ṭabarī (d.310) see below p.90. Ibn Ḥazm (p.150) calls him ʿAbū Yaḥya al Muʿarrif - perhaps confusion with ʿAbu al-rafūnī (vide Hibat Allāh, p.7 top.) Ḥāzimī (p.4) says he was ʿAbū Yaḥya al Muʿarqib.

characters named in the individual reports.<sup>1</sup> We are probably justified in recognising that what these conflicting reports have to tell us, is that a view, first propounded in a later generation, which was concerned to promote the study of 'naskh' - sc. to vindicate the theory - has been attached by its proponents to the name of an acceptable eponym of antiquity, with the aim of ensuring its acceptance. For preference, a companion would be selected to be the bearer of the doctrine, and it would be immaterial, with certain reservations, which we have already hinted at, and to which we shall return later, which of the companions was hit upon to serve as the patron of the doctrine. 'Ubayy b. Ka'b, for example, would be a disastrous choice, since, for other reasons to be considered more fully below, it was alleged of him that he rejected the Qur'ānic aspect of the theory of abrogation.<sup>2</sup> Yet the companion who is chosen as champion of the doctrine was generally intended to represent his entire generation. The defection of 'Ubayy is thus an unfortunate breach of the alleged 'ijmā' of the companions on the doctrine of abrogation, which is so strongly insisted upon /

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1. cf. Hibat Allāh, op.cit. p.7.

2. cf. Buchārī, K. al Tafsīr on Q. II, 106. videque supra, p.75. From the Buchārī report, it is clear that we have to do with the rationalisation of yet another doctrine.

upon elsewhere in the discussion;<sup>1</sup> But it was necessary to posit °Ubayy's stubbornness in the one central aspect of the Qur°ānic discussion.<sup>2</sup> In connection with a different aspect of the Qur°ānic discussion,<sup>3</sup> however, precisely the opposite doctrine is also attributed to him.

Buchārī quotes from ibn °Abbās: °Umar said: The Qur°ān expert among us is °Ubayy: The acknowledged legal expert among us is °Ālī: But we have abandoned elements in °Ubayy's doctrine since he maintains that he will never give up anything he heard direct from the prophet, although God Himself has said: "Whatsoever verse we abrogate or cause to be forgotten we shall bring one better than it, or one similar to it." (Q.II,106).

The concern here is with the Qur°ān as a source.

°Umar's words, as reported in al Baḥr al Muḥīṭ are:-

But we have abandoned elements in °Ubayy's text, since he maintained that he would never give up anything he had heard /

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1. One is expected to suppose also from the Hibat Allāh version that °Abū Mūsā had not heard of the doctrine. The mention of his name suggests, perhaps, tardiness at Baṣra to accept what Naḥḥās indicates to have been the doctrine of Kūfa?
  2. sc. The collection of the Qur°ān: qirā°at °Ubayy. laḥn °Ubayy (Maṣ. p.32).
  3. sc. The Qur°ān qua source: qawl °Ubayy. (Buchārī, loc.cit.)

heard direct from the prophet, although God Himself has said:  
 "Whatsoever verse we abrogate or cause to be forgotten, We  
 shall bring one better than it or one similar to it."  
 (Q.II,106).

The concern here is with the Qur'ān as a document and the words of 'Umar are exploited to explain why the alleged codex of 'Ubayy was said to contain two sūras not to be found in our present texts.

'Ubayy nevertheless figures in ḥadīths which purport to explain the absence in our Qur'āns of certain verses, which are held to have been the "source" of certain elements of the doctrine, on the grounds that they had not been included in the collected texts. (vide infra p. 124 ).

The significance to us, however, at this point of our enquiry, of such targhīb ḥadīths, resides in their purpose, rather than in their forms. The ability to distinguish the 'nāsikh' from the 'mansūkh' has come to be regarded, at least as early as the end of the second century,<sup>1</sup> after barely a century of literary treatment,<sup>2</sup> as not merely a desirable academic attainment, but, as an indispensable requisite for salvation, as being the sole key to that knowledge by which alone /

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1. The 'Alī ḥadīth occurs in 'Abū 'Ubaid, fol.2b.

2. vide supra p. 47 n. 1.

alone we can recognise and identify with certainty the will of God, in its final expression. This knowledge alone, can indicate those of the divine revelations which men must regard as having an enduring validity, as against those which may confidently be considered to have been either abandoned, or even, forbidden. Knowledge of the Book of God is not enough. That such is the implicit reasoning behind the employment of these ḥadīths, becomes explicit in the comment by Hibat Allāh<sup>1</sup> that the rebuked man had set up as an authority to instruct the people, but, that in his responsa, he had confused divine commands with divine prohibitions, and matters legally indifferent with matters legally prescribed.<sup>2</sup> It goes without saying, in the light of Bergsträsser's reminders, that the strength of the ethical tone of these ḥadīths is enough to prevent us from regarding them as true reflections of the ancient situation.<sup>3</sup> Abrogation enters upon discussion only when Islam is recognised to be a revelation, when law (Sunna) becomes commandment (Farḍ).

Another ḥadīth-series,<sup>4</sup> used in the same interest, features Ḥudhaifa, who, on being approached for a fetwa on some /

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1. op.cit. p.6.

2. For this wording see below, p. 333.

3. cf. Bergsträsser, Anfänge, p.78.

4. ibn Ḥazm, op.cit. p.150.

some matter, replied: 'Only three classes of persons give out fetwas: he who knows "the nāsikh and the mansūkh";<sup>1</sup> They said: "Who knows that?" He replied, "Umar". [cf. the words of Umar above, p.88 - One is thus not free from school bias. The name Umar represents Umar - attributed ḥadīths;] "a sultān, who finds it inevitable, in the course of his duties to hand down a decision; and an officious pedant." 'I am,' concludes Ḥudhaifa, disarmingly, 'in neither of the first two categories, and decline to place myself in the third.' In Hibat Allāh's version,<sup>2</sup> the categories are now four: an emīr; one deputed by an emīr; he who knows 'the nāsikh' and the 'mansūkh', and a brainless officious pedant.<sup>3</sup> In both ḥadīths the reference is to the theories of abrogation. There can be no doubting the grave view reflected in these reports. The civil authorities, by giving fetwas, may be incurring the displeasure of the 'ulemā', but they do at least have the excuse of necessity of office. Anyone else, who not having such excuse, undertakes /

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1. Naḥḥās' version, op.cit. p.6 has: "A man who has acquired the knowledge of the mansūkh of the Qur'ān and that means Umar. A qādī who finds no escape from rendering decisions..." The expression "the mansūkh of the Qur'ān" leaves open the question of the origin of the nāsikh.

2. op.cit. p.7.

3. Baghdādī projects the doctrine to a higher authority - 'Alī b. 'Abī Ṭalib. ms. Ber. Pet. 555, fol.1.



takes to make public pronouncements on the law for the Muslims, without having expert knowledge of the science of 'naskh' must expect to expose himself to the wrath of the schoolmen.<sup>1</sup> We are therefore dealing with inter-school rivalry. We find here also, the same parallel versions, which accompanied the other ḥadīth-series, and referring, besides the giving of fetwas, to the imparting of religious knowledge.<sup>2</sup> 'It was,' says Hibat Allāh,<sup>3</sup> "the woeful ignorance of this science displayed by the exegetes of his day that induced him to compose his book on 'al nāsikh wa al mansūkh' in the Holy Qur'ān." Both in this title, and in one version of the Ḥudhaifa ḥadīth, 'the mansūkh' is explicitly qualified as pertaining to the Qur'ān. The reason for this restriction, in the case of Hibat Allāh, is clearly the pedagogical necessity we have referred to above. In the case of Naḥḥās' version of the Ḥudhaifa ḥadīth, the source from which the nāsikh is supplied has been left unstated. His concern is with the non-application of Qur'ān statements - whether this is justified by appeal to the Sunna or to other Qur'ān statements. We have already argued that the /

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1. 'Aḥmed b. Ḥanbal and 'Ishāq b. Ibrāhīm al Ḥanẓalī said: "He who knows not the sound from the unsound ḥadīth and the nāsikh from the mansūkh is no scholar." Baghdādī, ms. Pet.555, fol.1.

2. Hibat Allāh, op.cit. p.7.

3. ibid. p.8.

the pre-Shāfi'ī scholars did not make that sharp distinction between the Qur'ānic and the extra-Qur'ānic components of the Tradition, which is such a commonplace in the post-Shāfi'ī literature that later generations seemed naturally inclined to assume that it had always been recognised.

'Ahl al ḥadīth' used the Qur'ān, as we saw, to impose upon their opponents the claims of the Sunna to participate in the establishment of the doctrine, and when this occurred, the theoretical discussions on sources on the relative status to be accorded to Qur'ān and Sunna respectively, later to merge into discussions on abrogation, had already begun. Attention has been drawn to the Qur'ānic origin of the key-word 'mithl' which was exploited in ḥadīths in favour of the Sunna. This same word occurs in another ḥadīth quoted by Hamadhānī: "The ḥadīth of the prophet is like the Qur'ān - one part abrogates another." The interpretation of this formula is at least open to discussion: it could just possibly be argued that it means: "the ḥadīth of the prophet, being like the Qur'ān, the one may abrogate the other." That this is not, however, the construction put upon the wording by Hamadhānī himself, is shown by his placing this ḥadīth together with the following report:<sup>1</sup> "Part of the ḥadīth of the prophet used to abrogate another part, just as part of /

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1. op.cit. p.23.

of the Qur'ān abrogates another part of the Qur'ān." This statement is supported by another ḥadīth traced to 'Urwa b. al Zubeir: "I testify that my father told me that the Messenger of God would make a statement, and then, after a while, would abrogate it by means of another statement, as the Qur'ān abrogates in certain places, other parts of the Qur'ān." An interesting, but unsuccessful attempt was made to project the doctrine back to the prophet himself:

Muḥammad b. 'Abdul Raḥmān, al Bailamānī reported, from his father, that ibn 'Umar handed down that the prophet had said: "Some of my ḥadīths abrogate others."<sup>1</sup> Both ḥadīths place the effort to justify the doctrine that 'naskh' operates in the Sunna as in the Qur'ān, within the generation of 'Urwa and /

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1. This last ḥadīth is known in no other version. ibn al Bailamānī, who is the author of other repudiated reports, is not followed: "huwa Ṣāhib manākīr lā yutāba° fī ḥadīthihi." His grandfather was reckoned among the mawālī of the caliph 'Umar. Ja°barī, (fol.4) accepts the ḥadīth as from ibn 'Umar! Abrogation occurs both in the Qur'ān on account of what God says in Sūrat al Baqara: "Whatsoever verse we abrogate," and in the Sunna on account of what ibn 'Umar relates to the effect that the prophet said: "Some of my ḥadīths abrogate others." Thus not only were certain Qur'ān verses seen as rendering sunnas redundant, or vice-versa, certain sunnas were rendering other conflicting sunnas redundant. This was explained by resort to the alleged phenomenon of abrogation which could be vindicated by appeal to the Qur'ān.

and ibn ʿUmar, sc. the age of the Successors, rather than that of the Companions. The doctrine as such therefore presumably originated even later, perhaps at about the time of Zuhri. However, the question at issue in the reported discussion is clear: far from rejecting the Sunna in favour of the Qurʾān, it concerns, rather, the rejection by scholars of parts of the Sunna in favour of other parts of the Sunna. The fact of the existence of such ḥadīths is a strong indication that the argument they embody is novel. It would not in fact arise until reference to ḥadīths from the prophet, having become the general rule, drove out reference to the Companions, and with it, easy access to a ready means of harmonising conflicting ḥadīths. The proponents of the view that abrogation indeed occurs within the documents of the Sunna, are shown as presenting their opponents, projected as resisting the doctrine, with a reminder of that doctrine which both parties are envisaged as holding in common: sc. that the phenomenon of abrogation is admitted to affect the documents of the Qurʾān. Nothing however requires us to assent to the apparent logical and historical implications of this special pleading, sc. that the acquiescence in the doctrine of the occurrence and legitimacy of abrogation within the Qurʾān source was historically prior to, and conditioned acquiescence in the corollary doctrine of the occurrence and legitimacy of abrogation /

abrogation within the Sunna source, (here presented as a qiyās based upon the recognition of the phenomenon as legitimately operating upon the Qurʾān). Reference to ḥadīths from the prophet did not become the general rule until after Shāfiʿī's time and we have seen that his appeal to the operation of the abrogation phenomenon in the Qurʾān was designed to support his effort to prevent appeal from the Sunna to the Qurʾān and to restrict the comment upon any one Sunna to another Sunna. The ḥadīth already noticed, in both ibn Ḥazm and Shāfiʿī, as employed there to legitimise, in theory, from Muḥammad's alleged words, the use of the Sunna alongside the Qurʾān, occurs also in Ḥamadhānī,<sup>1</sup> but, in a form which shows, unmistakably that it had been exploited to verify certain positive enactments additional to those of the Qurʾān, either on the dietary laws, or on the law of marriage, or both.<sup>2</sup> The status that had been won for the Sunna as a source, by Shāfiʿī's day, is shown by /

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1. op.cit. p.24.

2. cf. ibn Ḥazm, ʾIḥkām. pt.I, p.151: quoting ʾAbū Dāʾūd: "The prophet addressed the Muslims saying: 'Does one of you reclining on his couch suppose that God has not declared forbidden other than what is mentioned in this Qurʾān? By God! I have commanded and admonished and forbidden things as numerous as or, having the same force as, the statements of the Qurʾān.'" ʾinnahā la mithl al Qurʾān.

by his quoting the ḥadīth: "I have neglected nothing that God has commanded you, but that I have commanded it, and nothing that God has forbidden you but that I have forbidden it."<sup>1</sup> Schacht has pointed out<sup>2</sup> that here, too, the musnad for this alleged utterance of the prophet's is a late Successor. Leaving aside Shāfi'ī's polemic pro-Sunna interpretation, the utterance could very well refer to the Qur'ān itself, the issue of whose completeness, or incompleteness formed the subject-matter of one of the earliest stages in the entire series of Islamic debates on abrogation.<sup>3</sup> What, at this point, can be suggested, is that the ḥadīths we have just reported, seek to place before us a view of Islamic history, according to which, the doctrine of the abrogation of the Sunna by the Sunna had arisen only as a consequence of the realisation and the general admission that abrogation of the Qur'ān by the Qur'ān had, indeed, been seen to occur. It had not only been seen to occur, but had in fact, from the very revelation itself, been promised, in an utterance of /

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1. Umm, VII, p.271; Ris. p.16.

2. op.cit. p.53-4.

3. So also, it could be argued, that the mention of 'Umar and the reference to the mansūkh of the Qur'ān in the Ḥudhaifa ḥadīth could adapt it for use on a discussion on the extent of the Qur'ān, as we have seen done in the case of 'Ubayy's testimony. cf. below, p.411.

of the divine Lawgiver Himself,<sup>1</sup> just as, in ibn al Bailamānī's report, the occurrence of the phenomenon in the Sunna was alleged to have been verified by an utterance of the prophet himself. Thus, the authors of both the Islamic sources, have each, independently, been made to allege that abrogation would occur in each of the sources. If the Muslims accepted the notion that abrogation was a procedure resorted to, on occasion by God Almighty, there was, surely, nothing repugnant to their susceptibilities in accepting the notion that it could also, on occasion, be resorted to by the Messenger of God. This is but another aspect of the appeal that is made to the Qur'ān in support of the thesis of the traditionists. The effect intended was to guard against the rejection of the Sunna in toto on the excuse that too many ḥadīths were contradictory and that therefore their use involved dangers of error. This we know to have been the attitude of the Mu'tazila who further complained that many ḥadīths contradicted not only each other but were in conflict even with the texts of the Book of God.<sup>2</sup> As with Shāfi'ī, appeal to the General Theory of abrogation arises, not prior to, but in defence of a special theory.

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1. sc. Q.II, 106; Q.XVI, 101; Q.XIII, 39.

2. cf. ibn Qutaiba, K. Mukhtalif al Ḥadīth, passim.

### The Modes of abrogation:

Yet another aspect of the Muslim discussion of the phenomena of 'al nāsikh wa al mansūkh' concerns itself with the identification of what might be termed the modes of abrogation. The view that ultimately prevailed, but only with the majority, was that 'naskh' has been seen to operate upon the documents of the revelation in one of three possible ways:<sup>1</sup>

- i) naskh al ḥukm wa al tilāwa: the abrogation of both the original ruling, and the text which had embodied it.
- ii) naskh al ḥukm dūna al tilāwa: the abrogation of the earlier ruling alone, the text embodying the replaced ruling surviving in the documents, alongside the later text, revealed to embody the substitute, solely valid ruling.

It was examples of this phenomenon which concerned Shāfi'ī in his examination of both Q.VIII,65/66, and the question of the rôle of the imām, noticed above.

- iii) naskh al tilāwa dūna al ḥukm: the abrogation of the original text alone, the ruling it had embodied continuing valid and operative, despite the withdrawal of the revelation text which had once embodied it.

This expression of the three-fold operation of the phenomenon of abrogation may well, at first hearing, present merely the appearance of the development of an originally simple /

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1. Hibat Allāh, op.cit.p.9. "The mansūkh in Kitāb Allāh is of three kinds..." cf. ibn Ḥazm, op.cit.p.155, "Naskh is of three sorts..."



simple principle, at the hands of scholars with a marked penchant for theoretical tidiness, and a horror of the 'unexplored avenue'.<sup>1</sup> On the contrary, we shall find, on investigating the evidence, that it is precisely this three-sided structure which most easily falls to pieces and reveals its retrospective construction from materials, not originally connected in any respect. This threefold view of the phenomenon was hotly debated, and has never been unanimously admitted.<sup>2</sup> It will be for us to trace all the developments leading up to this admirably articulated theory as we review the arguments for and against it, in the literature, in our attempt to uncover there the bases on which these various doctrines were supposed to rest, and to identify the separate stages of accretion by which they were finally brought together into the unifying concept of a three mode operation. This investigation will enable us to propose a suggestion concerning the choice of the word 'naskh' itself to express the technical sense which represented and united these fascinating academic allegations.

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1. cf. Dr. Muḥammad Tawfīq Ṣidqī, loc.cit. p.151: "And in order to complete the sections of this independent science they alleged that there were three aspects to the operation of the phenomenon."
  2. Naḥḥās, op.cit., p.9, rejects the third mode out of hand. It is also, most recently rejected by Dr. Muṣṭafā Zeid, al Naskh fī al Qur'ān al Kerīm, Dār al Fikr al 'Arabī, Cairo, 1963-1383, v.I, pp.284-5.

## CHAPTER FOUR

## 1. Naskh al Ḥukm wa al Tilāwa

By the first of the three modes of abrogation - the abrogation of both the text and the ruling it had embodied - reference is made to the loss of some part of the revelation documents. But, if material which had once formed part of the documents of the Islamic revelation has been irrecoverably lost, neither its wording, nor its ruling surviving, there would, presumably be no certain means of our knowing that it had been lost, or, indeed, that it had ever existed. We shall be concerned to ask at what period in the history of the community this loss was conceived as having occurred, and since it is clearly not a question of total absolute loss - (for otherwise, how should we be able even to discuss it?) - whether there are thought to be degrees of loss, and how these are differentiated. Finally, can we identify the origin of the lost elements of the source materials of Islam, so that we may consider what, if any, significance they bear for our study of the phenomena of abrogation.

The first observation that may be made with complete confidence /

confidence, even apart from the choice, in the rubric of the word 'tilāwa' is that this particular mode of naskh can have relevance only in a discussion of abrogation, as it affects the text of the Qur'ān. Neither the root 'talā' nor the root 'qara' is restricted by the scholars to Qur'ān recitation, but it is patent that this non-restriction, where insisted upon, is always tendentious.<sup>1</sup> But, if both wording, and ḥukm of a ḥadīth were conceived to have been abrogated, the ḥadīth itself, would quite simply be non-existent, and hence, there could be no occasion for any discussion. Ḥadīths either exist, or not, are either accepted or not. If a ḥadīth text survived, yet the sunna it embodied were not accorded general recognition, this would be rationalised as arising from some dissatisfaction with the degree of support which was thought to be available to the ḥadīth in respect of its supposed connection with the prophet; the number of ṭuruq by which it had been transmitted, or the number and quality of the rāwīs by whom it was alleged to have been related. Both these considerations were applied to the ibn al Bailamānī ḥadīth we reported above, and on both grounds it was rejected.<sup>2</sup> The extreme example /

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1. vide Nahḥās, op.cit. p.9. cf. Shāfi'ī: Umm, VII, p.251.

2. cf. above p. 94 for rejection of a prophet-ḥadīth from ibn al Bailamānī.

example of this sort of dissatisfaction is the disputed status quâ source of the khabar al wāḥid, the precise meaning of which is not always clear to the scholars.<sup>1</sup> But, to attract any discussion in the literature, a ḥadīth must at least exist. No ḥadīth can therefore be said to satisfy the conditions of the first mode of naskh - naskh al ḥukm wa al tilāwa - which must, in consequence, refer exclusively to Qur'ānic materials. As we have seen, various criteria of soundness or weakness are applied in the classification of ḥadīth materials, but, per contra, a qur'ān is either admitted to be a qur'ān or it is not. The test of a qur'ān must therefore, one might suppose, be inclusion in the promulgated text. Naskh al ḥukm wa al tilāwa can therefore have gained recognition as a mode of abrogation, only within the context of a discussion on the extent of the text of the Qur'ān, as this has been handed down. Allegations would have been made that such and such a form of words, not now present in our inherited text, had once stood in the Qur'ān, having been acknowledged to be a divine revelation, but had been, for some reason, either omitted upon the collection of the individual texts into the canon of the Qur'ān, whether by inadvertence, or by deliberate /

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1. Ibn Ḥajar al 'Asqalānī, Fath al Bārī, Cairo, 1348, vol. ix, p.12.

rate act,<sup>1</sup> or if once admitted into the canon, subsequently suppressed, again, by inadvertence, or deliberate act. Inadvertence would imply that the verses in question had failed to survive to the date of the collection. Post-collection failure would imply neglect, or disagreement. Deliberate act would imply that certain verses had been withheld, or even removed from the text, during the course of the editing and collection of the individual verses into the recension(s) from which our present Qur'ān's stem, or even at some date subsequent to the completion of the first stage of the collecting processes. The implication of the existence of this first mode of naskh is clear. The majority of Muslims have traditionally regarded our Qur'ān texts as incomplete. No other construction may be put upon their development of a theoretical rationalisation of the Qur'ān's incomplete condition than the discovery, at a certain point in time, that the contents of the Book and the doctrines alleged to have been derived from the Book were visibly not co-terminous. The historical significance of this discovery is considerable. It was an admission by the Muslims themselves that the Qur'ān in their hands was not one /

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1. As, e.g. the deliberate omission by his rivals of numerous verses providing for the succession as head of state of Muḥammad's son-in-law, 'Alī b. 'Abī Ṭalib. vide Sarakhsī, 'Uṣūl, II, p.69. cf. F.B. IX, p.53.

one of two complete sources of their doctrine. The date of the collection of the Qur'ān thus took on obvious significance for the question of its confessed incompleteness. Various suggestions were advanced by the Muslims as to when the revelations to Muḥammad had first been collected into a single volume. Three notions, not necessarily mutually exclusive, yet, withal, reconcilable only by the expenditure of considerable ingenuity, predominate in the literature:

- a) that the Qur'ān was organised, and collected already in the lifetime, and under the supervision of the prophet himself.<sup>1</sup>
- b) that it was not collected by the prophet, nor yet by his first successor, until he was bullied and pressured into it by 'Umar b. al Khaṭṭāb.<sup>2</sup>
- c) that it was collected, not by Muḥammad's first successor, but by his third successor, 'Uthmān b. 'Affān.<sup>3</sup>

If we were justified in our earlier surmise, that plurality of attribution is the very hall-mark of doubt and uncertainty, then, here too, we should have to conclude that, amazingly, the Muslims simply did not know when the Qur'ān, as we know it to-day, was first assembled, and by whom. The suggestion that the Qur'ān was already collected in the lifetime, and under the personal supervision of the prophet, considered in association /

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1. vide infra p. 401.

2. do.

3. do.

association with the majority view that our present Qur'ān text is incomplete, leads naturally to the view, or equally naturally derives from the view that loss of Qur'ānic matter had already occurred before the prophet's death. On this topic, we find two classes of ḥadīth material, devised to represent what are, in effect, two distinct orders of phenomena, which in turn, are dependent upon two opposing views of the nature of the prophet figure. These phenomena are, respectively, the removal of Qur'ānic matter from out of the possession of the prophet and his immediate circle of adherents by simple natural failure of the human memory; and, a similar loss of Qur'ānic material, only, in this second view, brought about by the direct, miraculous intervention of the deity. The intimate connection between Muḥammad's memory and the phenomena of abrogation is established by our finding both the subject of a single study before the end of the second century. This occurs in al Farrā's examination of the verse of Sūrat al Baqara, which already had apparently long served as a basis for the 'proof' of the reality of abrogation:<sup>1</sup> Q II 106: (mā nansakh min āya 'aw nunsī hā). "the majority of the qurrā view this (nunsī hā) as derived from the root nasiya- 'to forget'. 'Abdallāh read it : mā nunsik min āya. Sālim, mawlā of 'Abū Ḥudhaifa read it : mā nansakh min āya 'aw nunsikahā .... which reinforces the 'forgetting' /

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1. Ma'āni al Qur'ān, vol I, pp. 64-5.

'forgetting' tafsīr. By 'naskh' is meant: that the practice be based on a verse, and then subsequently, another verse is revealed, on which the practice is based, the first verse being abandoned. (taraka). 'Forgetting' in this sense occurs in two ways: (i) abandoning, or leaving: sc. We leave it, and do not 'naskh' it,<sup>1</sup> as in Q.IX,67: 'they abandoned God, and He has abandoned them'; and, (ii) forgetting proper: Mention your Lord when you have forgotten .. (Q.XVIII,24).<sup>2</sup>

Qais - Hishām b. ʿUrwa.....(he gave an isnād, going back to the prophet, which Farrāʿ does not reproduce): The Messenger of God heard a man recite, and said: "God will have mercy on this man who has reminded me of verses which I had been caused to forget." (ʿunsītuhā).

Tafsīr was clearly already exerting pressure on the reading of the Qurʾān verses, as instanced by the two "ancient readings" quoted, which surely exclude meanings other than 'forgetting'. At the same time, we can see the diversion, in support of this tafsīr, of a ḥadīth which originally could not have had any connection with the phenomenon of abrogation. To forget verses, and then be reminded of them, while it may reinforce the 'forget' interpretation of /

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1. i.e. naskh al ḥukm dūna al tilāwa.

2. i.e. naskh al ḥukm wa al tilāwa.



of those Qur'ānic instances, in which the prophet is addressed by means of the root 'nasiya', does nothing to strengthen the belief in the forgetting irrecoverably of some Qur'ānic material. The ḥadīth is inimical ultimately to the 'forgetting' tafsīr-readings with which it is juxtaposed. The exploitation of the Qur'ān in support of the theories is not yet become the skilful art that was to develop in the following century.

### The isnād

In the field of the Sunna, a customary practice which enough Muslims did not care to abandon, would, when the challenge was issued by an opposition group that it justify its continuation in Islam by producing its documentary credentials, be equipped with a report showing that it had already existed, in the days of the prophet. Much care would have to be taken, as critical skills developed, with the passage of time, in the selection of the guarantors of each report, attention being especially given to dates of birth and death of the links in the chain of authorities, to ensure an uninterrupted continuity from the lowest to the highest authority. Equally important, in this respect, is the date of a man's conversion to Islām, and on this question, two distinct attitudes are detectable in the sources. Compare, for example, the detailed discussion by Shāfi'ī (Umm /

Umm I, pp.108-109) of the arguments marshalled by his anonymous interlocutor against Shāfi'ī's own 'proofs'. The opponent begins by accepting that the dhūl Yadain ḥadīth is ascertained to be authentic, arguing that nothing has been more widely reported from the prophet, only it happens to have been abrogated.<sup>1</sup> Shāfi'ī asks what had abrogated it, and the other replies with the ḥadīth of ibn Mas'ūd. Shāfi'ī asks the man whether he agrees that if two ḥadīths are in conflict, it is the later of the two which abrogates.<sup>2</sup> The opponent assents to this view. Shāfi'ī then reminds him that ibn Mas'ūd explicitly mentions in his ḥadīth that the event he was discussing occurred at Mecca - i.e. before the Hejira, whereas 'Imrān reported that his story occurred in the prophet's mosque - therefore, at Medīna, after the Hejira. The latter report must be the later, in which case, ibn Mas'ūd's report could not have abrogated 'Imrān's. Shāfi'ī then introduces, in support, 'Abū Huraira. The opponent protests, however, that he does not know when 'Abū Huraira became a Muslim. Shāfi'ī replies that 'Abū Huraira did not join the prophet until Khaibar, which he verifies with /

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1. The primary stage in the history of abrogation is the mere assertion that something has been abrogated.
  2. From the monotonous frequency with which Shāfi'ī exploits this principle of ta'akhur, it is tempting to suggest that within Islamic discussions it too is novel. This much is clear from the carelessness in these matters of his opponent.

with a saying, quoted from 'Abū Huraira himself that he was a follower of the prophet's in Medīna for at least three years.

The prophet, says Shāfi'ī, spent several years at Medīna, apart from the years he had remained at Mecca, following ibn Mas'ūd's return from Ethiopia, and before 'Abū Huraira's conversion to Islam at the time of Khaibar. How then, could ibn Mas'ūd's ḥadīth abrogate what is clearly later than it?

The role played by 'Abū Huraira in the isnāds of numerous ḥadīths is too notorious to require emphasising, and it did not go unnoticed nor unquestioned among the Muslims.<sup>1</sup> Given the date of his conversion, his probativeness is obvious. Since he is such a latecomer to Islam, his authority was much sought after to secure the reports on many doctrines against the allegation of their abrogation. The opponent returns to the charge. 'But your view,' he argues, 'is that dhul Yadain was killed at Badr. This battle occurred some sixteen months after the prophet's arrival at Medīna, and 'Abdallāh b. Mas'ūd survived all the fighting.'<sup>2</sup> Shāfi'ī, however, insists that 'Abdallāh had mentioned in his report that the event had occurred at Mecca. 'But,' persists the other /

1. cf. Bu. K. al buyūc, bāb: fa 'idhā quḍiyat al ṣalāt.

2. i.e. he would have witnessed prophetic behaviour after the death of dhul Yadain.

other, 'is the dhūl<sup>6</sup> Yadain you relate from the same who was killed at Badr?' 'No', replies Shāfi'ī, 'Imrān called him al Khirbāq, or qaṣīr al Yadain, or madīd al Yadain, whereas, the man killed at Badr was called dhūl<sup>6</sup> Shamālain. Perhaps both men were referred to as dhūl<sup>6</sup> Yadain. This would merely be a coincidence of names, not an uncommon occurrence. Finally, the opponent, returning from another angle, refers his ḥadīth to Mu'āwiya b. al Ḥakam.

Technical consideration of the isnād was thus already operating in Shāfi'ī's day, and as this branch of science burgeoned, the great series of biographical studies of individuals occurring in the isnāds began to appear. But the development of skills was uneven and Shāfi'ī himself could be called to question on occasion.<sup>1</sup>

A widespread custom would naturally attract numerous reports, rather than one less widely favoured, and another device in polemic was to count the ḥadīths which could be marshalled on either side. The technique is not infrequently exploited by Shāfi'ī.<sup>2</sup> There grew up, in this way, the material distinction between three general classes of reports: the mutawātir - a report transmitted from countless sources /

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1. cf. his confusion over Hiṭṭān al Raqāshī. Ikh. p.252.

2. e.g. on "bequests", Ris. p.22. cf. supra, p. 69, n.2.

sources by numerous isnāds; the mašhūr - a wellknown, widespread report, but somewhat less heavily sponsored than the first. The wāḥid - the isolate; - theoretically, and, as Shāfi'ī uses the term, it apparently refers to reports which are traced back to a single ancient authority. There is evident, however, some uncertainty in the later scholarship, as to its precise definition, which, as we shall see, has important doctrinal moment.<sup>1</sup> As to the date of a man's conversion to Islam, there are two distinct attitudes, which seem, on closer examination, to represent two distinct phases, within the sunna science. For matters of the extent of the Qur'ān, for example, earliness of conversion appears to have been considered material. This same consideration appears also to have had, at one time, significance for the legal tradition, but seems to have been eventually dislodged by lateness of conversion.<sup>2</sup> In the sunna on the extent of the Qur'ān texts, the preference seems to have been given, at one point, to earliness of conversion, and this is borne out by the significant rôle sought for the names of prominent companions such as: °Abdallāh b. Mas°ūd, °Abū Bakr, °Umar, °Uthmān, and °Alī. This, in turn, however, appears also to have been finally dislodged in favour of lateness of conversion, /

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1. vide below p.444,n.3.

2. cf. ft.note 1, p.57 above.

sion, and it may be that this change in preferences, is to be explained in the same manner as the marked preference for late conversion in the isnād of legal ḥadīths.<sup>1</sup> When the Qur'ān, as a document, is the subject of discussion, earliness of Islām, and length of companionship is emphasised. When, however, the Qur'ān, as a source, is the pre-occupation, lateness of conversion prevailed in the estimation of the scholars.<sup>2</sup> There is, however, considerable overlapping, and no little consequent confusion in the reports on the various aspects of the Qur'ān which merited discussion. Bearing in mind, however, throughout our examination of these reports that earliness of conversion was finally driven out by lateness of conversion, in both aspects of these discussions - the Qur'ānic and the Sunna - just as consideration of the Qur'ān as a document, never really of serious interest to Muslims, was overtaken and displaced by consideration of the Qur'ān as a source, yet countered by seeking to exploit a quite extrinsic device, the so-called annual review of the Qur'ān,<sup>3</sup> we may perhaps be justified in concluding that it is now no longer possible to disengage the reports on the history of the Qur'ān text from the requirements of the legal theories of abrogation.

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1. Ṭayālīsī: Sunan, p.92, No.668: Ibrāhīm said: This ḥadīth delighted the scholars, since the conversion of Jarīr was later than the revelation of Q.V. cf. Mekkī, on Q.V,8; 'Abū Yūsuf, K. al Āthār. (Bāb: al mash' 'alā al khuffain.)
  2. Blachère, Intro., p.32 foot, misses this subtlety.
  3. See below p. 422, ff.

## CHAPTER FIVE

The Collection of the Qur'ān

The discussions on the content of the promulgated Qur'ān text, reduce themselves to all appearances, in the literature, to retrospective consideration of the respective and relative merits of several rival 'codices' - those attributed to the companions; 'Abdallāh b. Mas'ūd, 'Ubayy b. Ka'b, 'Abū Mūsā al 'Ash'arī, the khalīfa 'Uthmān b. 'Affān and others. In fact, these discussions really relate to the alleged evaluation of the so-called 'variant' Qur'ān readings ascribed to the authority of these eminent Companions. That such discussions were even possible, makes two conclusions abundantly justified:

- a) that the generation conducting such discussions believed (or claimed) that the prophet of Islam had not bequeathed to his community a text of the Qur'ān, collected under his personal supervision, and promulgated under his divinely guaranteed imprimatur to be the sole, complete and authentic record of the revelations, ne varietur, and
- b) they further believed (or claimed) that with the removal by death of the prophet, the earliest generation of the Muslims had not been unanimous on the precise extent of the contents of the Qur'ān.

This is a most astonishing state of affairs to prevail in respect of the alleged primary source of the revealed religion /

religion and Law of the Muslims. The discussions featured, as we shall see, assertions that having already perished, much of the material originally revealed to Muḥammad had, of course, failed to survive him, and hence the reports, purporting to describe the circumstances of the earliest decision to promulgate an official text of the revelations, normally contain a story to illustrate the belief that fear of even further loss was the chief motive for the decision of the companions to collect the remainder of the revelations. Certain minorities in the later generations, looking back incredulously, as well they might, at these candid admissions of loss, from their position of considerable separation in time, and in space from the historical Muḥammad and his companions, in the Arabia of the seventh century, were psychologically incapable of reading them at their face value, more especially, as they involved conflict, both with their own idealised picture of the prophet figure, constructed on the basis of their doctrine of the perfection of the prophets, and also with certain, to them, clear statements in the Qur'ān itself.<sup>1</sup> The development of the dialectic skills however enabled the majority to interpret the details of these reports to themselves, in a fashion more in keeping with the highly elaborate atmosphere of doctrine, in which the /

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1. e.g. Q.XV,9. cf. the use made of this āya by the opposition, vide *infra* p. 357. cf. also F.B.IX, p.70.



the later discussions were conducted. The intervention of advanced, highly articulated sophisticated doctrines such as : 'iṣma, iktisāb and abrogation in the discussion on Muḥammad's memory is obvious<sup>1</sup>. The prophet of 'Abdallāh's : ' I am but human, I forget as you forget'<sup>2</sup> with his alleged ordinary human memory had long since faded into a remote past, and by a continuing process of dehumanisation had been stripped of all his human frailties, bereft of his historical personal identity and replaced by the automaton of theory, predictable not only in his behavioural responses to those around him, but determined also even in his weaknesses. Such a figure is obviously no historical reality but merely the latest cipher in a series of abstract beings - the prophets, mere symbols intended to represent their respective ummas. There is an impressive disparity between the paucity of ḥadīth material on Muḥammad's memory and the massive proportions of the Islamic comment literature devoted to the arguments surrounding the various constructions which might be placed upon the meagre reports. The sheer weight of the commentary and tafsīr matter which can be assembled, testifies to the intensiveness and/

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1. vide F.B. IX pp. 69 ff.

2. Bu. K. al Ṣalāt: bāb: faḍl istiḳbāl al qibla; al tawajjuh. The ḥadīths assembled ostensibly concern Muḥammad's memory but in reality are 'proof'-documents adduced to harmonise conflicting doctrines on forgetfulness at prayer. Both the ḥadīths and the comments presuppose abrogation.

and extensiveness of the debates within the community, on what for Islam, is an important question for both internal and external polemic. For all this is in reality a question of no mere biographical interest, but a discussion, understood by all who participated, to refer, obliquely perhaps, but none the less directly, to the integrity of the Muslim revelation - and, what is much more important, to the integrity of the community of that revelation. The seeds of all these developments were visible already in the second century, in fairly advanced form when indeed the central allegation that parts of the Qur'ān had perished was already in circulation. There was division on the interpretation of the verse : "We shall instruct you in the reciting it, and you will not forget, except what God wills"<sup>1</sup>: from which it was possible to derive and to defend two contrary theses : that this verse establishes beyond all doubt that the prophet could, and most probably did, forget parts of the Qur'ān; that the verse establishes beyond all doubt that the prophet could not, and hence did not forget any part of the Qur'ān.

The tafsīr discussion naturally was never intended to be an end in itself, but was merely a means to furnish from the Qur'ān evidence either in support of, or in rebuttal direct of /

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1. Q LXXXVII 6-7- reference to the verse is subsequent to the demand for reference to the Qur'ān in substantiation of any doctrine.

of one of two rival views of the prophet the significance of which in turn reaches far beyond the person of the prophet to buttress doctrinal positions originally erected on a foundation of almost total disregard for the texts of the Qur'ān. For, of the two fields in which this question of whether or not Muḥammad was capable of forgetting the Qur'ān : - the discussion on the integrity of the so-called 'Uthmānic' recension of the Qur'ān: and the campaign in the field of the fiqh, or rather, of the 'uṣūl al fiqh, to establish the ultimately divine, and thus Islamic origin of certain legal conclusions nowhere supported by, nor even referred to in the Qur'ān texts, the first was but the logical consequence, a subsidiary, but perhaps for all that a more subtle technique developed to neutralise certain initial objections within Islam to these extra-Qur'ānic conclusions. We have seen that the verse in Q LXXXVII provided both comfort and documentary supports to disputants on both sides of the debate as to whether Muḥammad might be regarded as having been capable of forgetting Qur'ān matter. Those who rejected the very notion as inconceivable, relied upon the negative statement expressly selected by God in this very text, and explained away the expression : 'illā mā shā' allāh : as a formula of becoming humility signifying the subservience of all creatures, angels and prophets, in all matters, to the all-determining will of the Godhead; the majority, on the contrary, united on their insistence /

insistence that the appended utterance really did express an intended exception, and that therefore, part of the Qur'ān could well have been forgotten by Muḥammad, nevertheless, emasculated this interesting viewpoint of any real historical significance for us, and showed their determination not to allow this concession to interfere with, but, rather to turn it to the support of their views on the nature of prophets, by pointing to the Qur'ān's emphasis on the will of God. This is, however, merely a verbal dispute, since both arguments reached the same material conclusion - sc. that the extent of the surviving revelations will be determined by the will of God. The agreement on the central issue that the Qur'ān is incomplete, emphasises that all other aspects of the discussion affected other doctrines and were irrelevant to the question of the Qur'ān as a source. This in turn demonstrates the total lack of interest in the Qur'ān as a document. What the prophet may have forgotten, must not be considered as the outcome of ordinary human frailty, or of inattentiveness to the preservation of the revelations, but, has to be seen as having occurred under effective divine control. Ṭabarī, in a discussion with anonymous opponents, quotes their views: "Some have disapproved the reading: ʿaw tansa-hā:<sup>1</sup> if by this, the reference is to (ordinary human) forgetting. They say: "It /

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1. In Q.II,106, vide Taf.II,p.479.

"It is not possible that the Messenger of God could have forgotten some part of the Qur'ān which had not been abrogated, unless that is, he were to forget something of it, and then remember it again."

This dispute localises the previously studied ḥadīths. What is clear is that what is being denied is ordinary human inadvertence. Throughout all the subsequent discussions we shall be quoting, the word 'forgetting' must be regarded as having two functions: where 'forgetting' is conceded, this must be regarded as having its basis in divine causation; where 'forgetting' is denied, this is not the same as what is being conceded, but is merely human forgetting, arising from Muḥammad's human nature. No group in Islam has admitted the possibility of the occurrence of this latter kind of forgetting. Whatever Muḥammad is admitted to have forgotten, he forgot because God willed it to be forgotten, and hence God had caused the prophet to forget that which He designed to 'naskh', purposing that it should not form part of the final promulgated text of the Qur'ān. There is, in this concession, no danger to faith from a candid admission by the scholars that Muḥammad had forgotten some of the revelation passages, so long always, as one bore in mind that anything that he had forgotten, was precisely that which God had caused him to forget - no less, and no more. Any other view of the matter, must inevitably, introduce the possibility /

lity that the divine purpose in the act of the self-revelation could be frustrated.

Reported Loss of Qur'ānic materials:

Suyūṭī quotes from al Ṭabarānī the following ḥadīth related by ibn 'Umar:<sup>1</sup> "Two men recited a sūra which the prophet had taught them to recite,<sup>2</sup> and which they were in the habit of reciting. One night, they stood up to pray, but could not recall a syllable. In the morning, they went, first thing to the prophet and informed him of that. He replied: 'The sūra is part of what has been abrogated, (nusikha) so pay no further attention to it.' " The final clause suggests that, in such ḥadīths, one is not merely discussing the Qur'ān as a provider of prayers, but as a source of doctrine. An extreme development of the attitude that certain passages of the Qur'ān had not indeed, merely been mislaid, or otherwise, naturally lost, but had been calculatingly removed by divinely controlled forgetting, finds expression in several reports that some Qur'ānic passages had been removed in a less round-about way, by immediate, and spectacular divine intervention. 'Abdallāh b. /

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1. Itq. II, p.42.

2. 'aqra' - the wording of these ḥadīths depends upon, and hence represents a Tafsīr to Q.LXXXVII, 6-7.

Mas'ūd is credited with authorship of the following:<sup>1</sup> 'The Messenger of God instructed<sup>2</sup> me in the recitation of a particular Qur'ānic passage, which I then got by heart, and wrote out in my muṣḥaf. When night came, I went to my room, where I discovered that I could not recall a syllable of the āya. I went first thing in the morning to check my muṣḥaf, only to find the page blank! I went, and informed the prophet, who said: 'ibn Mas'ūd! that verse was withdrawn last night.'

The 'Abdāllāh version represents a daring advance on other versions of this type of occurrence, introducing, as it does, explicit mention of interference, not only with 'the breasts of men', but also, with the written records of the revelations.<sup>3</sup>

The term employed by Hibat Allāh and translated here 'withdrawn' is 'ruf'iat', i.e. 'taken up', 'raised'. In the foregoing version of the event ascribed to the other 'Abdāllāh, - ibn 'Umar, - the term used is 'nusikha' 'nasakhed', abrogated. (above, p. 121 ). The alternation in the literature, of these two words, which are not synonymous /

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1. Hibat Allāh, op.cit. p.11.

2. 'aqra' - the wording of these ḥadīths depends upon, and hence represents a Tafsīr to Q.LXXXVII, 6-7.

3. We are therefore now dealing with the Qur'ān both primarily as a source and as a document!

mous, will provide us, when we come to the discussion of the vocabulary of 'naskh', with a useful key to the understanding of the processes by which the various theories developed, converged, and finally coalesced into the classical theory of abrogation. The ibn 'Umar version is more emphatic in one sense, in that it states specifically that the two men to whom the strange experience occurred, had been in the habit, for some time, of reciting the Qur'ānic passage before it was lost to them by its miraculous removal; equally striking was the prophet's admonition that now that it had been abrogated, they should dismiss all thought of it from their minds, and no longer take it into consideration. It had, then, apparently, not quite gone? Alternatively if it had quite gone, they should not waver in their faith on that account?

There is a noteworthy progression in the materials which have been handed down on this important question, in the ḥadīth literature; similar to the above, are the following reports which, however, restrict themselves to quite uncircumstantial statements:

°Anas b. Mālīk is stated to have said:<sup>1</sup> "In the lifetime of the prophet, we used to recite a sūra, which we compared, /

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1. Hibat Allāh, op.cit. pp.10-11. Q.IX, now consists of 129 verses.



compared, for length, to sūrat al Ṭawba - but all I remember of it now, is one single verse."

Ḥudhaifa reported:<sup>1</sup> "You don't recite today one quarter of Sūrat al Barā'a."

The most striking of this ḥadīth type, is that statement ascribed to ʿAbdallāh b. ʿUmar: "Let none of you say: 'I have got the whole Qurʾān' - How does he know what all of it is? Much of the Qurʾān has gone! (dhahaba). Let him rather say: 'I have got of it that which is extant!'"<sup>2</sup>

#### Identification of Qurʾān materials alleged to have been lost

A further stage in the development of this ḥadīth-type is marked by the identification of the wording of the verses supposed to have been omitted from our Qurʾān texts: ʿUbayy b. Kaʿb said to Dhīrr b. Ḥubaish<sup>3</sup> "How many verses do you reckon in sūrat al ʿAḥzāb?" Dhīrr said: "Seventy two, or seventy three." ʿUbayy said: "It used to equal in length Sūrat al Baqara, and we used to recite in ʿAḥzāb the 'stoning verse'." Dhīrr asked: "What is the 'stoning verse'?" ʿUbayy /

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1. Itq. II, p.42.

2. Itq. loc.cit. p.40-41. cf. ibn Ḥajar, vol.IX, p.54, in whose version the final word reads rufiʿa, (not dhahaba).

3. Itq. II, p.41. Elsewhere ʿUbayy is specifically regarded as the chief enemy of naskh al tilāwa. cf. supra p.75.

°Ubayy said: "If the sheikh and the sheikha fornicate, stone them outright, as an exemplary punishment from God. God is mighty, wise!"

The aunt of °Umāma b. Sahl said:<sup>1</sup> "The Messenger of God instructed<sup>2</sup> us in the reciting of the 'stoning verse': 'The sheikh and the sheikha, stone them outright, in requital of the pleasure they enjoyed.' "

°Abū Wāqid al Laithī said:<sup>3</sup> 'It was the Messenger of God's habit when revelation was made to him, to instruct us in some of what had been revealed to him. I came to him one day, and he said: God says:<sup>4</sup> "We sent down property for the keeping up of prayer, and the giving of zakāt; were ibn °Ādam to possess a wādī, he would dearly like a second; were he to have a second, he would dearly like a third - nothing fills the maw of ibn °Ādam, but dust. But God is relenting to him who relents." '

°Ubayy b. Ka°b said:<sup>5</sup> 'The Messenger of God said to me: 'God commands me to teach<sup>6</sup> you the Qur°ān.' He then recited: /

1. Itq. loc.cit.

2. °aqra°.

3. Itq. loc.cit.

4. The formula suggests a ḥadīth Qudsī, rather than a qur°ān, but the ḥadīth attempts to suggest a qur°ān.

5. ibidem.

6. °aqra°.

recited: "The ingrates of the people of the Kitāb, and the polytheists" - the verse continues: "Were ibn ʿĀdam to ask for a wādī of property, and were given it, he would ask for a second, and if he asked for a second, and were given it, he would ask for a third. Nothing will fill the maw of ibn ʿĀdam except dust! But God is relenting to him who relents. The very religion, in God's sight, is the Ḥanīfiyya, not Judaism nor Christianity. Whoso does good, it will not go unthanked." '

ʿAbū Mūsā reported<sup>1</sup> that a sūra similar to Barāʿa was revealed, and subsequently retracted (rufiʿat). He recalled however: "God will assist this religion with folk who have no share in the hereafter; were ibn ʿĀdam to have two wādīs of property, he would hanker after a third - nothing will fill the maw of ibn ʿĀdam, but dust! God is relenting to him who relents."

In a work known as the Jawāb of al Nājī<sup>2</sup> the following information is purveyed: "al Bazzār relates a ḥadīth from Buraida, who said: "I heard the prophet recite 'ibn ʿĀdam' at prayer."<sup>3</sup> The men in the isnād are thiqqāt. The āya was /

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1. Itq. II, p.42.

2. Burhān al Dīn al Nājī: Dār al Kutub, Majāmiʿ Taimūr No. 207. (begins at fol.10).

3. To leave no doubt that it had been a qurʿān. cf. p. 411-2.

was said to have been in Sūrat Yūsuf.

The imām °Aḥmed relates, in an ibn °Abbās ḥadīth a tale, in the course of which ibn °Abbās says: "Were ibn °Ādam to have two wādīs of gold, he would desire a third, but nothing will fill the maw of ibn °Ādam, but dust. God relents to him who relents." °Umar said: What is this? ibn °Abbās replied: "°Ubayy taught me to recite it." °Umar took me and we went along to °Ubayy, to whom °Umar said: "We don't say this." But °Ubayy answered: "This was taught me<sup>1</sup> by the Messenger of God." °Umar said: "Shall I write it into the muṣḥaf, in that case? °Ubayy said: "Yes."

This incident occurred before the copying of the °Uthmān muṣḥafs, on the basis of which the practice has come to be established. [Ubayy was represented as more zealous to collect all the Qur°ān than was any other Companion]. °Ubayy is more persistent than any of us in the reciting of what has been abrogated.<sup>2</sup> (GdQ. I, p.92, n.2).

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Buchārī says: °Abul Walīd said: Ḥammād b. Salama told us, as from Thābit, from °Anas, from °Ubayy: 'We were of the opinion that ibn °Ādam was part of the Qur°ān, until 'alhā /

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1. °aqra°.

2. cf. supra, pp. 75, 124.

'alhā kum al takāthur' was revealed.<sup>1</sup>

Also ascribed to 'Abū Mūsā is the following:<sup>2</sup> We used to recite a sūra, which we likened (for length?) to one of the Musabbiḥāt, but we have forgotten it - (or have been caused to forget it?) - yet, I have remembered the following from it: "Oh ye who believe! Do not say that which ye will not perform, lest there be written a testimony about your necks, and you be asked about it on the Day of judgment!"

'Umar declared:<sup>3</sup> We used to recite: "Turn not away from your fathers - that would be ingratitude on your part." 'Umar then said to Zaid b. Thābit: 'Is that not the case?' Zaid confirmed that it was.<sup>4</sup>

'Umar<sup>5</sup> said to 'Abdul Raḥmān b. 'Awf: "Don't you find, among what was revealed: 'Strive, as you strove at the first' - for we cannot find it." 'Abdul Raḥmān replied: "That /

1. This counter-ḥadīth reduces 'ibn 'Ādam' to a tafsīr of 'alhākum'. cf. Bu., K. al Tafsīr on 'alhākum'.

2. Itq. II, p.42.

3. ibidem.

4. The reason for the presence of Zaid, collector of the officially promulgated Qur'ān, in such a ḥadīth will be clear.

5. Itq. II, p.42.

"That has fallen away,<sup>1</sup> among those elements of the Qur'ān which have fallen away."

Abū Sufyān al Kalā'ī said<sup>2</sup> that Maslama b. Makhlad al Anṣārī said to them one day : "Tell me of two āyas in the Qur'ān which were not included in the written text." They could not. Among their number was Abu al Kunūd, Sa'd b. Mālik. Maslama went on : "Those who have believed, and have left their tribe, and have striven in God's cause with their property and their lives, hear then, the glad tidings ! Ye it is who have succeeded. And those who sheltered them, and assisted them, and strove in their defence against those who have incurred the wrath of God - soul cannot divine what has been treasured up for them of joys for what they have done."

Anas is reported<sup>3</sup> in the two Ṣaḥīḥ's as saying : "There was revealed concerning those slain at Bi'r Ma'ūna a qur'ān which we recited until it was retracted (rufi'a) : "Inform our tribe on our behalf that we have met with our Lord, and He has been well pleased with us and has satisfied our wants."

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1. ʿusqīṭat - passive ! cf. supra, p. 107, ʿunsīṭuhā.

2. Itq., II, p. 42.

3. ibidem. (cf. Ṭab., taf., II, p. 479).

al Ḥussein b. al Manārī says,<sup>1</sup> in his book on 'al nāsikh wa al mansūkh': "Among those parts of the Qur'ān, whose writing has been retracted (rufi'a), yet whose remembrance has not been retracted (rufi'a) are to be reckoned the two sūras of supplication, in the witr, known as Sūrat al Khal' and Sūrat al Ḥafd." cf. supra pp. 75, 124, 127

This is the rationalisation of reports that 'Ubayy's "codex" contained these two sūras not found in the 'Uthmān "recension". If a scholar is considering the Qur'ān as a document, he quotes 'Umar's alleged dictum: We have not adopted 'Ubayy's "reading". If the Qur'ān is considered in its capacity as source 'Umar's dictum reads: We have not adopted 'Ubayy's "doctrine". Both ḥadīths conclude: for 'Ubayy has said: 'I shall never abandon what I heard from the prophet direct.' Bu., K. al Tafsīr, Bāb: Qaulihi: mā nansakh.

That some sunnī scholars reserved their judgment on this mode of abrogation, is shown by a remark of Mekkī's: "It is conceivable that God abrogate the entire Qur'ān, by removing it from the memories of His creatures, rescinding the regulation, without any replacement. There are many reports to this effect, from the prophet, which is further indicated /

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1. Itq. loc.cit.

indicated by God's words: 'Did We wish, We would remove that which We have revealed to you.' [Q.XVII,86]. Something of that order did occur, according to what has been reported about Sūrat al 'Aḥzāb. The knowledge of this sort of thing is derived solely from reports, and God knows best, whether it is sound."<sup>1</sup>

### The dating of the alleged loss

Differing from the above reports, is the following group, which are marked by yet a further progression, in that they undertake to specify the period during which the loss of certain Qur'ānic materials was alleged to have occurred:

'Urwa b. al Zubeir reported 'Ā'isha as saying:<sup>2</sup> "Sūrat al 'Aḥzāb was recited, in the lifetime of the prophet, as having two hundred verses, but when 'Uthmān wrote the muṣḥafs, we could not produce more than the Sūra now contains."

ibn 'Abī Ḥamid reports<sup>3</sup> his having been informed by Ḥumaida, the daughter of 'Abū Yūnus as follows: "My father recited, to me, in his eightieth year, from the codex of 'Ā'isha, the verse: "God, and His Angels bless the prophet. Oh /

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1. op.cit., fol.2.

2. Itq. II, p.41.

3. ibidem.



Oh Ye who believe! Bless him also, and give him a pure greeting, and greet also those who pray in the front ranks." (cf. Jeffrey, Materials, pp.231-233). Ḥumaida added: "This was before"<sup>1</sup> ʿUthmān changed the muṣḥafs."

Another report of the kind, by placing the loss of Qurʾānic material expressly into the period following the prophet's death, has been the source of considerable consternation in scholarly circles, and the serious embarrassment provoked by it, has called forth prodigies of taʿwīl.

ʿĀʾisha said: "Among the revelations was the ruling that ten separate attested sucklings set up a bar to marriage; these ten were later replaced by the rule that five attested sucklings constitute the bar, and the five sucklings were still being recited, as part of the Qurʾān, when the prophet died."

As it stands, this statement apparently means, says Suyūṭī<sup>2</sup> that the verse on the five sucklings actually survived the prophet, which cannot be the case. What in fact is /

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1. Two versions of the ḥadīth are known; the above represents the version which reads: "qabla ʿan yughaiyira ʿUthmān al maṣāḥif." Jeffrey, M.W.No.28(1938),p.64, translated from Abū ʿUбайд's Faḍāʾil al Qurʾān a version reading: qāla ʿinna ʿUthmān - it is said that ʿUthmān altered the Muṣḥafs.

2. Itq. II, p.35.

is meant, is that the prophet's death drew near; alternatively, it could mean that the reciting of the five had been abrogated, in the same way as had been that of the ten, but that the news of this 'naskh' did not reach all the people, until after the prophet's death. When he died, some of the people were still, apparently, reciting this verse, and it is 'Abū Mūsā's view that the verse was revealed, but subsequently retracted (rufi'at). Mekkī is able to note this as an unusual instance in which both the mansūkh and its nāsikh, are each in their turn, abrogated, and that in consequence, neither is any longer recited.<sup>1</sup> This occurrence is unique in the history of the phenomenon of 'naskh al ḥukm wa al tilāwa', for the Mālikī view is that both verses are mansūkh; whereas, the Shāfi'ī view is that the five represent naskh al tilāwa dūna al ḥukm, for five is the Shāfi'ī minimum ruling, although the words indicating the five are no longer extant in the Qur'ān.<sup>2</sup>

"The 'Ā'isha ḥadīth occurs in a version from Yahyā b. Sa'īd, which does not have the words: "the prophet died, and this verse was still being recited in the Qur'ān."

The scholars and the 'uṣūlīs regard this form of the ḥadīth as ṣaḥīḥ, since there can be 'naskh' only before the death of /

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1. Mekkī, op.cit. fol.4.

2. vide infra, p. 287 ff.

of the prophet. It is not acceptable that the prophet die, and there be a recited qur'ān which the Muslims subsequently agree to drop,<sup>1</sup> except in the doctrine of those who hold that 'naskh' by the 'ijmā' is possible."<sup>2</sup> If the words omitted by Yaḥyā are an interpolation, the academic motive for their insertion is perfectly clear.

The removal of Qur'ānic material, in this manner, after the death of the prophet, would once more represent the frustration of the divine purpose in the revelation, and both those who are prepared to accept with equanimity its full implications, as also those who reject them, are united in their efforts to explain away 'Ā'isha's startling statement:- "We were too pre-occupied with the preparations, in the prophet's sick room to give any thought to the safe-keeping of the sheets, on which the revelations were written, and while we were attending to our patient, one of the household animals came in from the courtyard, and gobbled up some sheets which were below the bedding."<sup>3</sup>

Those who would account for all occurrences here below, in terms of divine agency, could see in this unfortunate mishap, /

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1. 'isqāṭ.

2. Mekki, op.cit. fol.4.

3. ibn Qutaiba: Ta'wīl Mukhtalif al ḥadīth, p. 398.

mishap, nothing incongruous; here indeed, was the working of the hand of God. Those others, who failed to seize this point, were driven in another direction to disarm the words: "were still recited at the time of the prophet's death": as shown, by ta'wīl. In either event the removal of the words was determined by God and occurred under effective divine control.

## PART TWO

## CHAPTER SIX

The second mode of 'naskh' - "naskh al ḥukm dūna al tilāwa".

The second mode of naskh envisages the abrogation of a Qur'ān ruling. The wording of the text embodying the original ruling, alleged to have been abandoned and superseded by a substitute ruling survives, however, in the texts of the revelations, alongside the wording of the later ruling. This is, as Ḥāzimī points out, the 'classic mode of naskh'.

Of the three modes spoken of in the theory, this form alone is common to both Qur'ān and Sunna and undoubtedly was the internal starting-point of all subsequent abrogation theorising. This aspect of abrogation it is, and in its Qur'ānic aspect alone, which has chiefly attracted such attention as western scholars have given to the Muslim discussions on the abrogation principles, and it consists, as we see, in the continued simultaneous presence in the inherited documents of two or more statements thought by the scholars to have been recognised by the fathers as in conflict to the point of being mutually exclusive. The standard example of this classic mode of abrogation phenomena, adduced by Ḥāzimī, and by countless other Muslim commentators to prove the fact /

fact of abrogation, and of abrogation in the Qur'ān in particular, concerns the 'idda - the waiting period imposed by God upon widows before the expiry of which they may not legally contract a valid re-marriage. The Qur'ānic law is held to have derived originally from Sūrat al Baqara, v. 240: "And those of you who die and leave widows, a bequest in favour of the widows of maintenance for a twelve-month without their being turned out." This we shall see, conflicts with the legal doctrine.

v. 234 of the same sūra reads:

"And those of you who die and leave widows, such women should keep themselves in waiting for four months and ten nights." This, it will be seen is the 'idda verse proper.

The rulings imposed by the two verses were alleged to be in total conflict, but whereas one verse appears to state that the 'idda should be for a whole year, it could also be argued that there exists no present conflict, for although that had once been the case, it was so no longer, since the other verse so clearly states that the waiting period is merely one of four months and ten nights. The verse to this effect, had, on its revelation, superseded the earlier verse, replacing its ruling by imposing in its stead, the new lighter ruling.

It might not perhaps be clear why there should have been such widespread concern as is indicated in the literature on /

on this question, since there appears to be nobody in Islam who insisted, in the working out of the positive law that the widow should be required to wait for a whole year before being declared free to re-marry. What can it have mattered that the 'idda in the distant past had once been for twelve months, if all are now agreed that the present period is limited to four months and ten nights? There could of course have been this theoretical difficulty that the Book of God appeared, on this topic, to be divided against itself. This might have been relevant internally if the Law had in fact been derived from the Qur'ān texts. Another difficulty of even greater, because practical significance to the Muslims for the definition of the 'idda, occupied the attention of the scholars. This was not the question of the length of the 'idda, but the question of those financial and maintenance provisions understood to have been assigned to the widow from the estate of her late spouse, under the terms of Q.II,240 and deductible from the benefice that might be anticipated by the man's heirs. Were those provisions to continue for a whole year, as can be argued from the Qur'ān texts? for four months and ten days? or could they be shown to have been repealed in toto? For this last was the grounds of the widow's treatment in certain places.

The scholars, by the simple expedient of linking the financial /

financial provision (matā°) to the waiting period (°idda) were able to effect, as a first stage in their retrospective argument, a Qur°ānic origin for the considerable reduction that had been achieved in the post-Muḥammedan period in the claims against estates.

Further, by assimilating the bequest (waṣīyya) mentioned in Q.II,240 to other bequests mentioned elsewhere, e.g. Q.II,180, they could set this aside by declaring all bequests overtaken and abrogated by the revelation of the Qur°ān's detailed inheritance regulations in Q.IV.<sup>1</sup>

The first point to be established in a chain of incredibly complex argumentation was that the °idda had, as a matter of historical fact, been originally observed for the twelve months, in order to show that this burden had subsequently been abolished.<sup>2</sup>

"The majority of the °ulemā° consider that Q.II,234 is the nāsikh of Q.II,240, on the grounds that for a brief period when a Muslim died and left his widow pregnant he would make a bequest in her favour to finance and accommodate her for twelve months on condition that she did not remove from his house nor re-marry. This situation was subsequently abrogated by the imposition of the four months and ten nights' /

1. Nahḥās, op.cit. p.74.

2. Jaṣṣās, °Aḥkām, I, p.498.



nights' 'idda and by the inheritance regulations."<sup>1</sup>

The tafsīr element in this statement becomes clear, when we consider that Q.II,240 speaks of widows in general, without reference to whether they be pregnant or otherwise. But the unwarranted interpolation of that qualification was necessary to prepare the ground for a further assertion of abrogation.

The two verses in Q.II, occur, moreover, in an environment of references to many different aspects of marriage including such matters as:

the avoidance of sexual intercourse with menstruant women (v.222); the regulation of the 'ilā' institution, with the waiting period for men of four months (v.226); the 'idda of divorced women (v.228); general divorce definitions (vv.229-232); regulations on breast-feeding (v.233); the 'idda of the widow (v.234); proposals of re-marriage to widows (v.235); the compositions payable to divorcées (vv.236-7); those payable to widows (v.240), and the maintenance payable to divorced women (v.241).

It is not surprising that a connection should be easily formable between the topics treated of in vv.234/240 which affect only widows and the regulations established in Q.LXV which, /

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1. Nahhās, op.cit., loc.cit.

which, however, concern not widows, but divorcées. It is from Q.LXV that the qualification of pregnancy has been borrowed. ibn ʿAbbās is reported<sup>1</sup> to have said that Q.II,240 is a reference to the practice of expecting the widow to observe the ʿidda for a whole year, her wants being provided for from her late husband's capital. Q.II, 234 was revealed later imposing a four months and ten nights' period on all widows who were not pregnant. Subsequently the inheritance verses were revealed in which God detailed the individual shares, including the widow's and hence, following that revelation, the maintenance and the bequest by the dying husband to the widow were abandoned (taraka). Here again, the reference to Q.LXV is unmistakable.

Those from whom it was reported that Q.II,240 had been abrogated included ʿUthmān. The connection of the collection of the Qurʾān and the principles of abrogation is clear in an unsuccessful protest that was raised against the whole theory of naskh al ḥukm dūna al tilāwa shown in a ḥadīth introduced to document the view that Q.II,234 abrogates Q.II,240.<sup>2</sup> ʿAbdallāh b. al Zubeir is said to have confronted ʿUthmān and demanded to know why he had recorded /

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1. Nahḥās, loc.cit. p.75.

2. Itq. I, 105.

recorded in the Qur'ān the text of Q.II,240 when he knew it to have been abrogated (withdrawn/suppressed/replaced). 'Uthmān replied that he would on no account alter any part of the Qur'ān from the place which he knew it to occupy in the Holy Book. Even if the ruling be suppressed or replaced, the words having once been revealed, are quite properly to be recorded as part of the Qur'ān texts. The dispute is both methodological and semantic. The form this ḥadīth takes alters with the purpose it serves. It re-appears in Nahḥās' version<sup>1</sup> in concern over the anomaly that an abrogating verse precedes (sc. in the text) the verse it abrogates. Again 'Uthmān replies that he would on no account interfere with the order of the verses in their sūras. This is intended to suggest that the arrangement of the verses in the sūras was revealed, and not the work of the Companions. The Muslim sciences, depending upon the atomisation of the revealed texts, established the rule following the settlement of the principle that in abrogation, the later abrogates the earlier, that the arrangement of the verses in the Qur'ān bears no relation to the chronological order of their revelation. The protest that Q.II,234 precedes Q.II,240 is thus neutralised. 'Uthmān had set down the Qur'ān in the order he had learned from Muḥammad, without regard to the fact that he knew a particular /

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1. Nahḥās, op.cit. pp.74-5.

particular verse to have been abrogated (replaced) or that its abrogand preceded it in the text order.

The arbitrary nature of all assertions of abrogation is shown by the claims of other scholars that no abrogation is involved in this matter of the 'idda, but that what had happened was merely that the 'original 'idda' of four months and ten nights had been increased by the addition of seven months and twenty nights to make up the complete year.<sup>1</sup> This flies in the very face of the doctrine, and whilst Ṭabarī might seem to favour it,<sup>2</sup> he predicated it, not of the actual 'idda, but of the financial and accommodation provisions. The reverse doctrine is also held: that there was no abrogation, but merely a reduction from twelve months to four months and ten nights, in the same way as the ritual prayers are reduced, for travellers, from four to two rak'as. This doctrine was documented on the basis of a transparent tafsīr.<sup>3</sup> The opinion is mentioned by Nahḥās as palpably erroneous, since, if the rule had clearly stated that the widow should observe a twelve months' 'idda, providing that she did not leave her husband's home (at this point, the concept of the 'idda has /

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1. cf. ibn al 'Arabī, op.cit. I, p.207.

2. Tafsīr, V, p.258, p.261.

3. Nahḥās, op.cit., p.76.

has been confounded with that of the *matā'*) but that, if she did leave, she was not to be prevented, and the rule was then abolished in favour of the four months and ten nights' *'idda*, during which she might not go out, (at this point, the law affecting widows has been confounded with that affecting divorcées.) this was indisputably an instance of abrogation. *ibn al 'Arabī* commits the like confusion:<sup>1</sup> "It was affirmed under Q.II,240 that the widow might either elect to leave the husband's home, or remain. This liberty to choose was abrogated (withdrawn) by God in Q.II,234." The alleged restriction is based not on the *Qur'ān* but upon a tendentious *tafsīr*. The traveller's prayers have, according to *Nahḥās*,<sup>2</sup> no connection with the *'idda*. Besides, it is reliably reported from *'Ā'isha* that she held that prayers had originally been imposed as only two *raka'as* which were subsequently increased to four for non-travellers only, and remained at the original two for all travellers. This, which is the doctrine of a number of scholars, had been challenged on the grounds that *'Ā'isha*, in spite of her alleged doctrine, never shortened the prayers, but always, even when travelling, completed four *raka'as*. i.e. there was a counter-*ḥadīth*. The *fuqahā'* replied that there was no contradiction: *'Ā'isha*'s statement as to the two /

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1. loc.cit.

2. loc.cit.

two rakas is attested, only, being the Mother of the Faithful, she was always among her children, wherever in Islam she might alight. Since always and everywhere at home, 'Ā'isha was never a traveller! Her doctrine therefore, could never apply to herself. i.e. the ḥadīth conflict had been harmonised.

What finally clinched the abrogation of Q.II,240, was the following ḥadīth reported by Zeinab bint 'Abī Salama: "I visited 'Umm Ḥabība, the widow of the prophet, when her father, 'Abū Sufyān b. Ḥarb died. She called for some perfume containing cosmetic matter, and smeared a slave-girl, and then her own cheeks, saying: 'I don't really need perfume, only I heard the Messenger of God say: It is not proper for a woman who believes in God and in the Last Day, to mourn a dead man for more than three nights, save only her husband, - him she should mourn for four months and ten nights.' "

Nahḥās introduces three ḥadīths, but gives only two.<sup>1</sup> Shāfi'ī gives all three.<sup>2</sup> Nahḥās' third (Shāfi'ī's second) is the same as the above, except that instead of 'Umm Ḥabība, it features another widow of the prophet, Zeinab bint Jahsh on the occasion of the death of her brother, /.

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1. Nahḥās, op.cit. p.77.

2. Umm, I, p.212.

brother, °Abdallāh. Zeinab smears herself. The prophet's words are made the more solemn by being delivered from the pulpit. This last is a common device in ḥadīth verification.

The alternative Zeinab also reports her own mother, °Umm Salama, widow of the prophet saying: "A woman came to the prophet and said: 'My daughter has just been widowed. Her eyes are troubling her, may I treat them with kohl?' The prophet said she might not, repeating his prohibition once or twice and adding: 'It is only four months and ten nights! One of you women in the Jāhilīyya used to throw a handful of dung only on the first anniversary of her husband's death.' "

In °Abū °Ubaid,<sup>1</sup> Zeinab reports from three widows of the prophet: °Umm Ḥabība, °Umm Salama, and Zeinab bint Jaḥsh.

Ṭabarī adds to the growing list of Muḥammad's widows: Ḥafsa and °Ā°isha,<sup>2</sup> both of whom are also mentioned by Shāfi°ī.<sup>3</sup> This gives us a total of five widows of the prophet! There was clearly in documenting the Sunna a determination /

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1. op.cit. fol. 87b.

2. Taf. V, p.81.

3. loc.cit. p.213.

determination to attach a doctrine affecting widows to a widow of the prophet. In such a discussion they would of course, be doubly qualified and to three of their number a personal qur'ān has also been ascribed.

Shāfi'ī has inserted these ḥadīths not in his chapter on the 'idda but under the Mourning rubric.<sup>1</sup> The confounding of mourning with 'idda is doctrinised by Shāfi'ī, who holds that 'all required to observe the 'idda of widowhood are bound likewise to observe mourning'. The ḥadīths had little to do with the questions we are discussing, but represent the attempt to introduce into Islam a notion that mourning is an additional obligation of the widow, an idea said to have been resisted by al Ḥasan al Baṣrī as groundless.<sup>2</sup> But because they mention two periods, one of twelve months, the other of four months and ten nights, they are exploited to identify mourning with 'idda and thus to convey the impression that the 'idda had at one stage been for a whole year. The reference to the Jāhiliyya, a commonplace device in tafsīr, is deliberate and designed to give the impression that by implication, it represented, by inclusion, the early days of Islam. The point is well taken by ibn al 'Arabī:<sup>3</sup> "... the widow's 'idda in early Islam, /

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1. Umm, V, p.214.

2. Nahḥās, op.cit. p.77.

3. op.cit. I, p.207.



Islam, as it had been in the Jāhiliyya, was for twelve months."

The Qur'ān's mention of a twelve month period was unhelpful as to dating, as was also the position of the verse in the Book, and the ḥadīth was introduced to supply the deficiency, by showing that the 'older' twelve-month ʿidda had been shortened by none other than God Himself, as His prophet explained, to only four months and ten nights. Thus, and only thus is the claim that v.240 has been abrogated, documented. Nahḥās observes<sup>1</sup> that this one ḥadīth is "full of fiqh", and from it he derives some eight legal propositions, of which two are of immediate interest: that mourning is obligatory, but that mourning is not imposed upon the pregnant widow, for she was excluded by the prophet's words 'four months and ten nights' which is the ʿidda of the widow who is not pregnant.

The ḥadīths exhibit another familiar device in their oblique references to Qur'ānic expressions, as a means to their own verification.

Thus far, the concept of the ʿidda has been confounded with that of the mataʿ; widowhood with divorce, and mourning with observance of the waiting period.

It would perhaps be helpful before proceeding, to clarify /

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1. op.cit. p.75.

clarify the frequent confusion between the pregnant and the non-pregnant widows. Neither Q.II,234 nor Q.II,240 makes a single reference to the pregnancy of the widow. The two verses may therefore be regarded as general, in both wording and sense, bearing upon all widows; or, general in wording only, but restricted in sense, and to be interpreted as specific to non-pregnant widows. This last was the view of a scholar mentioned by Nahḥās who himself accords it a measure of approval.<sup>1</sup> If the view were justified, the ʿidda for the pregnant widow would be found to be established elsewhere. Only the insistence on treating these two Q.II verses as dealing with a common topic led to this division of opinions. Other scholars, under the impression that Q.LXV, v.4,<sup>2</sup> despite its evident restriction to the case of the pregnant divorcée, was general in both wording and sense, and noting the different rule it established, asserted that if Q.II,234 had been originally general to all widows, its application to the pregnant widow had been abrogated by Q.LXV,4.<sup>3</sup>

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1. op.cit. p.74.

2. The ʿidda of the pregnant divorcée is co-terminous with her pregnancy.

3. cf. ibn al ʿArabī. op.cit.I,p.208: if it be objected that Q.LXV,4 applies restrictively to divorcées, our reply is that its connection with pregnant divorcées, does not hurt its general application to all pregnant women.

The 'idda of the pregnant widow was held, by analogy, to be determined by the birth. This one slender connection between the qur'ān's dealing with the widow and those on the divorcée, once forged, fanned out until it had permeated the entire field of discussion on the various implications of widowhood which are thereby rendered intolerably complex. Sarakhsī argues:<sup>1</sup> "If a widow be pregnant, her 'idda in our view is determined by the childbirth. This was the doctrine of ibn 'Umar and of ibn Mas'ūd. 'Alī held that she should observe whichever of the two waiting periods was the longer - either Q.II,234, or Q.LXV,4. This was because the words: 'and those women who are pregnant', of the latter, imposed upon her the period of the entire pregnancy, whereas Q.II,234 imposed only the four months and ten nights. The sources ought to be jointly observed so that if she were to give birth before the end of the four months and ten nights, she might still not re-marry, since her 'idda is the longer of the two periods and one should preserve the letter of the Qur'ān. But it is soundly reported from both ibn 'Umar and 'Abdallāh that Q,LXV,4 is "qāḍīyya 'alā"<sup>2</sup> Q.II,234. 'Umar's doctrine was that were a widow to give birth while her husband still lay on his bier, she had quitted her 'idda obligation."

Once again, a point of dispute was settled by appeal to the ḥadīth./

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1. Mabsūṭ, VI, p.30.

2. vide Hamadhānī, op. cit. p. 24-5.

ḥadīth.

ibn Mas'ūd said: "I challenge whosoever wishes to engage in mutual oath-taking,<sup>1</sup> that the shorter Sūrat al Nisā' (i.e. Q.LXV) was revealed later than the words of Q.II,234." The 'proof' of 'Abdallāh's contention and of 'Umar's doctrine' is that Subai'a bint al Ḥārith of 'Aslam gave birth nine days after the death of her husband. She asked 'Abul Sanābil b. Ba'kaka whether she was free to re-marry. He replied: 'No, not until the Book shall have expired.'<sup>2</sup> She then went to the prophet and told him what 'Abul Sanābil had said. The prophet replied: 'Abul Sanābil has not told the truth. The Book has already expired. If you wish to re-marry, do so.'

Nahḥās tells<sup>3</sup> us that the view that the verse in Q.LXV abrogated - or elucidated - Q.II,234 was the opinion of the majority of the Companions, the Successors and the fuqahā' including: 'Umar, ibn 'Umar, ibn Mas'ūd, 'Abū Mas'ūd, 'Abū Huraira, ibn al Musayyab, Zuhri, Mālik, 'Awzā'ī, Thawri, 'aṣḥāb al ra'y, Shāfi'ī, 'Abū Thawr. The /

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1. Mabsūṭ, VI, p.31 has bāhaltu; Nahḥās, p.75, lā 'antu.

2. i.e. Q.II,235. Again the verification device of reference to the Qur'ān.

3. op.cit. pp.75-6.

The contrary doctrine, that the ʿidda of the pregnant widow was the longer of the two periods is attributed to ʿAlī, between whom and the Companions there occurred an acrimonious dispute. ʿAlī accused the younger Companion ʿAbū Masʿūd of lack of knowledge, but he produced the ḥadīth of Subaiʿa, which ʿAlī had not heard. The ʿAlī doctrine is attributed also to ibn ʿAbbās, who together with ʿAbū Salama, was asked for a fetwa on the question. ibn ʿAbbās replied: 'Her ʿidda is the longer of the two periods.' The other said: 'When she gives birth, she is free to re-marry.' ʿAbū Huraira joined in and agreed with ʿAbū Salama. They sent ibn ʿAbbās' freedman Kuraib into ʿUmm Salama, the prophet's widow. She sent word that Subaiʿa had given birth only nights after her husband's death and mentioned this to the prophet who said: 'You are free to re-marry.'

The view of the younger Companion fails in the face of the view of Muḥammad. Naḥḥās concludes that, when instructions from the prophet on a disputed question reach us, the doctrine of any other is of no account, not least, when, as here, there is a text in the Qurʾān. Moreover, all the scholars are unanimous that if a widow be pregnant after the completion of the four months and ten nights she is still not free to re-marry. This shows that pregnancy is the major consideration.

The tendency of the Subai'a ḥadīth was to propound the view that the application of Q.II,234 was unstable: ibn Kathīr states<sup>1</sup> that the view of ibn 'Abbās that she observe the longer period, being designed to secure observance of both āyas, would have been an excellent position but for the Subai'a report. ibn al 'Arabī goes further:<sup>2</sup> "Even if the Subai'a ḥadīth were not sound, the ibn 'Abbās opinion would still not stand up, since pregnancy is dealt with at Q.LXV,4. With the childbirth, the object for which the 'idda was instituted, sc. observation of the condition of the womb, has been accomplished. What then, would be the point of the additional months? If she completed the months, and remained pregnant, no scholar would agree that she would be free to re-marry. The Subai'a ḥadīth removes every anxiety and tops every whim and ra'y."

The scholars had, by application of the distinction between pregnant and non-pregnant, improved upon the Qur'ān's silence and sown the seed of the idea of the conditional nature of even Q.II,234.

'Alī and ibn 'Abbās conceded, with all other scholars, that if still pregnant at the end of the four months and ten nights, she was not yet free to re-marry. Their ra'y was that /

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1. Taf., I, p.284.

2. op.cit. I, p.208.

that Q.II,234 had not been abrogated. Sarakhsī considered:<sup>1</sup> that 'what muddled °Alī was that childbirth makes it plain that the womb is unoccupied; whereas, in tarabbuṣ, the womb is not considered, so much so, that in respect of the °idda of widowhood, minors and elderly ladies are held to be under the same obligation as fertile women, as opposed to their respective positions in the matter of the °idda of divorce.<sup>2</sup> We hold that the °idda was established basically to determine that the womb is unoccupied, which consideration is manifestly satisfied by childbirth, and in the case of the pregnant widow, no further consideration applies.'

The inconsistency of this view is clear. If the °idda is not merely a period of observation, the only other attribute it can have is that of a religious obligation. Neither minors, nor non-Muslims have religious obligations, nor do elderly ladies have problems with pregnancy. If the womb is not considered in tarabbuṣ why should tarabbuṣ be determined by the childbirth? °Alī's alleged view was that tarabbuṣ and pregnancy were totally independent phenomena, neither determining the other, and his qiyās was based on the reflection that tarabbuṣ was imposed on women whose pregnancy was impossible.

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1. Mabsūṭ, VI, pp.31.

2. cf. Q.XXXIII,48.

The artificiality of the connection of mourning with the 'idda becomes apparent in another dispute on the extent of the obligation of a woman widowed without her knowledge. 'Alī is said to have held that her 'idda commences when she receives news of the husband's death. The Ḥanafīs, urging the alleged opinions of ibn 'Abbās and ibn Mas'ūd, hold that the 'idda is reckoned from the actual moment of death. The effect of this is that if she does not become aware of the death until four months and ten nights have elapsed, she observes no 'idda. 'Alī was said to have argued that she is required to mourn during her 'idda, which she cannot do, until she learns that her husband is dead. Besides, the 'idda is a religious duty to perform which, the woman must be aware that it is due. The Ḥanafīs held the 'idda to be the mere passage of time and time passes independently of her knowledge or ignorance of a particular fact. The most that would happen in such circumstances, is that she would omit to mourn, which has no effect upon the ineluctable passage of four months and ten nights. The 'idda's being a religious obligation is a subsidiary, not a primary attribute; it is, for example, imposed upon the kitābī widow, although no Islamic religious duty is expected of her. (Mabsūṭ, VI, p.32).

Shāfi'ī's view is that mourning is a duty imposed upon widows by the Sunna. If unaware of the time of the husband's /



husband's death, the widow should reckon her 'idda from the time she became aware that the husband was dead. Should the report of his death not reach her until four months and ten nights have elapsed from the actual time of death, her 'idda is accomplished. She need not then embark upon either 'idda or mourning.<sup>1</sup>

It has not been made clear how childbirth before the expiry of the obligatory four months and ten nights' tarabbuṣ affects the ineluctable passage of time.

Doubt on the essential connection between the 'idda and the observation of the condition of the womb is likewise provoked by the doctrine that the 'idda is to be observed regardless of whether the marriage had been consummated or not. This view was supported by a ḥadīth featuring 'Abdallāh b. Mas'ūd, whose fetwa, admittedly based on ra'y was subsequently and happily verified by a report coming from the prophet.<sup>2</sup>

Sarakhsī returns to the problem from the linguistic side:<sup>3</sup> Consummated or not, the institution is known as 'marriage', a participating woman as 'wife'. Q.II,234 specifies 'wives' - a term which embraces minors, elderly ladies, virgins and non- /

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1. Umm, V, p.208.

2. ibn Kathīr, Taf., I, p.284. cf. M.St.II, p.147 for an assessment of this ḥadīth.

3. loc.cit. p.30.

non-virgins. The 'idda is thus a legal claim residing in the institution and aroused by its dissolution.

ibn Kathīr informs us<sup>1</sup> from 'Abū 'Umar b. 'Abdul Barr that ibn 'Abbās retracted his alleged earlier opinion<sup>2</sup> in favour of the doctrine embodied in the Subai'a ḥadīth, as is evidenced by the fact that his followers based their fetwas on this ḥadīth.

The 'idda of the slave widow is also disputed. Her waiting period is held to be half that of the free woman's on the analogical consideration that the penalties for any infringement of the laws governing marriage would be half those exacted upon the person of a free woman.<sup>3</sup>

ibn Sirīn and some of the Ṣāḥirīs have objected both that Q.II,234 is general in its application to the free and the unfree and that the 'idda is a physiological matter which does not vary with the widow's status.

Another ḥadīth ascribes to ibn Mas'ūd the information that the foetus is quickened in the womb after one hundred and twenty days from conception. The extra ten nights added on, in the 'idda, allowed for the shortness of some of the months./

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1. loc.cit.

2. Another harmonisation technique where conflicting ḥadīths are attributed to the same man.

3. Umm, V, p.198.

months.<sup>1</sup> This is an interesting example of scientific rationalisation. The physiological considerations doubtless also underlie the opinion from 'Aḥmed that the 'idda of the umm walad is the same as that for the free woman. But it is also related from 'Aḥmed that he repudiated this view, together with the ḥadīth which had induced it. The 'equal idda doctrine' is reported from: ibn al Musayyab; Mujāhid; Sa'īd b. Jubeir; al Ḥaṣan al Baṣrī; ibn Sirīn; 'Abū Ayyād; 'Umar b. 'Abdul 'Azīz, and it is said that during his caliphate, Yazīd b. 'Abdul Malik had applied it.<sup>2</sup>

'Awzā'ī, 'Ishāq b. Rāhawaihī, 'Aḥmed, Tāwūs and Qatāda had held that the 'idda of umm al walad is two months and five nights.

'Abū Ḥanīfa and his followers; Thawrī; al Ḥaṣan b. Ṣāliḥ b. Ḥayy; 'Alī; ibn Mas'ūd; 'Aṭā'; 'Ibrāhīm - are all said to have held that her 'idda is for three menstrual cycles.

Mālik; Shāfi'ī and 'Aḥmed said one menstrual cycle, which is held to have been the doctrine of : ibn 'Umar, Sha'bī; Makḥūl; al Laith; 'Abū 'Ubaid; 'Abū Thawr and the 'mass of the scholars'.

Mālik said: If she is non-menstruant, her 'idda is three months.

Shāfi'ī and the 'mass of the scholars' held one month.

Others /

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1. ibn Kathīr, loc. cit. p.285.

2. ibid.

Others argued that Q.II,234 and Q.II,240 continued independently valid but, in Naḥḥās' view,<sup>1</sup> they were speaking nonsense, for they based their view on the argument that a widow may not spend the night away from the matrimonial home.<sup>2</sup> He argues that were this the sound view, they would have to linger under this ban for a whole year. But, in any case, there is no reported 'ijmā' on the question of the widow's having to stay indoors. The first generation of Muslims, as also those who followed them, were divided on this question. Those who insisted that she must stay at home, included: 'Umar; 'Uthmān; 'Umm Salama; 'Abdāllāh and ibn 'Umar. In this view they were followed by the majority.

Mālik holds that the widow might pay calls after the night prayer, but might on no account spend the night elsewhere than in the matrimonial home. This was also the doctrine of: Laith; Thawrī; 'Abū Ḥanīfa and Shāfi'ī. Shaibānī said: Neither the widow, nor the woman divorced absolutely may leave the matrimonial home in any circumstances.<sup>3</sup>

Sarakhsī distinguishes between the divorced and the widowed in this respect:<sup>4</sup> No woman, either absolutely divorced, or under /

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1. op.cit. p.78.

2. The matter is not mentioned in Q.II,234; it is alleged to be in v.240. This has however, been confused with Q.LXV,1.

3. Shāfi'ī describes this as the view of a 'so-called scholar', Umm, V, p.217.

4. Mabsūṭ, VI, p.32.

under only one pronouncement of divorce, whether final, or retractable, may leave the matrimonial home, by night or by day, until the expiration of her 'idda, since God says:

"They will not go out." ibn al-'Arabī says:<sup>1</sup> There is no possibility of the widow's removing from the husband's home. This is the view of all scholars, except ibn 'Abbās, 'Aṭā' and Thawrī, who were under the misapprehension, he says, that Q.II,240 had not been repealed. There is here, a further confusion between 'going out' and 'removing', for both of which, the Arabic uses: kharaja. ibn al-'Arabī qualifies the word by saying: khurūj intiqāl.<sup>2</sup> On 'khurūj al-'ibāda', he reports that ibn 'Abbās and 'Aṭā', again, held the view that widows might perform the obligation of the pilgrimage and the 'umra.

Both 'Umar and ibn 'Umar took the opposite view, and 'Umar used to intercept women in 'idda who intended the pilgrimage, and sent them home.

Sarakhsī, reporting this attitude from both 'Umar and 'Abdallāh,<sup>3</sup> specifically states that the intercepted ladies were widows. We are thus again face to face with a confounding of Qur'ānic regulations. In Q.II,240, governing widowhood, /

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1. op.cit. I, p.209.

2. For Shāfi'ī's discussion consult Umm, V, pp.209-12.

3. loc.cit. p.36.

widowhood, occur the words: ghair 'ikhrāj: they shall not be evicted. In Q.LXV,1: lā tukhrijūhunna wa lā yakhrujna: You shall not evict them, nor shall they go out. Much depends, however, on the punctuation.

This last ruling, we have already pointed out, has been transferred from the divorced to the widowed by, e.g. ibn al 'Arabī: The widow's liberty of choice to remove was abolished by the imposition of the tarabbus in Q.II,234. This explains his statement that ibn 'Abbās was under the impression that v.240 had not been abrogated.

Those who held that widows might go out, even for the pilgrimage, included 'Alī. This is attested as his opinion from the report that when 'Umar was murdered, 'Alī removed the victim's widow, his own daughter, 'Umm Kulthum, from 'Umar's house, before the completion of her 'idda, to his own house.<sup>1</sup> Sarakhsī, in a single sentence,<sup>2</sup> both reports this of 'Alī and of 'Umm Kulthum, and relates an identical ḥadīth reporting this of 'Ā'isha and her sister, (who also has the name 'Umm Kulthum), and whom 'Ā'isha removed on the death of the husband, Ṭalḥah b. 'Uбайдالله. The opinion is also reported<sup>3</sup> from ibn 'Abbās, who argued that God had imposed /

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1. Nahḥās, op.cit. p.78.

2. loc.cit. p.36.

3. Tab., taf., V, p.86.

imposed upon the widow merely the requirement to observe the 'idda, without stipulating where she should do this. She could, in his view, keep the 'idda where she pleased

Thawrī relates, via ibn Juraij, as from 'Aṭā', as from ibn 'Abbās:<sup>1</sup>

"Neither the widowed, nor the divorced is required to remain in her house, nor is either entitled to maintenance."

This 'required to remain in her house' acquired a shift in meaning.

Ṭaḥawī says:<sup>2</sup> "The widow, pregnant or not, is entitled to neither accommodation nor maintenance." Sarakhsī's ability to distinguish the divorced from the widowed is explicitly derived from this question:<sup>3</sup>

"The women who lost their husbands complained of loneliness to ibn Mas'ūd, and he granted them, exceptionally, permission to exchange visits in daytime providing that they did not spend the night away from their homes."

Shāfi'ī knows this ḥadīth,<sup>4</sup> but from the prophet:  
 "The women widowed at 'Uḥud, complained of loneliness to the prophet, /

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1. Naḥḥās, loc.cit. p.78.

2. Mukh. P.220.

3. loc.cit. p.32.

4. Umm, V, p.217.

prophet, who permitted them to visit by day, providing they returned to their homes by nightfall."

Sarakhsī argues that the principle involved is that in the widow's ʿidda there is no entitlement to financial support and they have to go out to earn their living, as opposed to the divorced, who are financially provided for, and hence have no occasion to leave the house.<sup>1</sup> One therefore worked back towards the source of these conclusions, from these consequential modifications in the derived details. In addition to ʿAlī and ibn ʿAbbās, ʿĀʾisha and Jābir are credited with the opinion that the widow need not keep to her house. This makes four companions advocating this view, some of whom employed the Qurʾān in evidence, but, says Naḥḥās,<sup>2</sup> the Qurʾān is against them since the word tarabbus means: they must shut themselves away.<sup>3</sup> Ṭabarī holds that the word means:<sup>4</sup> they must shut themselves away for the period of the ʿidda, from seeking re-marriage; refrain from the use of perfume and cosmetics and pretty clothes; and desist from removing from the matrimonial home. All this they must do for four months and ten nights.

ibn /

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1. loc.cit.

2. Naḥḥās, op.cit. p.78.

3. i.e. the Tafsīr is against them!

4. Ṭab., taf., V, p.79.



ibn al 'Arabī:<sup>1</sup> the word means waiting, and its referents are three: marriage; perfumes and beautification and going out. i.e. widowhood, divorce and mourning are now all three confounded in a single statement.

An additional evidence against the four Companions, is furnished by the prophet himself, when he said to Furai'a:<sup>2</sup> Remain in your house, until the Book shall expire.<sup>3</sup> The ḥadīth represents for ibn al 'Arabī,<sup>4</sup> conclusive evidence that the liberty to choose whether to remain or to remove had been repealed. This further suggests to him that she is therefore entitled to her accommodation.

For Nahḥās,<sup>5</sup> it provides evidence, against ibn 'Abbās, that the widow may not go out, but is obliged to remain at home. Sarakhsī<sup>6</sup> sees in it evidence that the widow may go out by day, for he observes that the prophet did not scold Furai'a for leaving her house, which she must have done, to come and consult him. The widow may not, however, spend a single night away from the matrimonial home. Travelling, whether for the purposes of the pilgrimage or otherwise, is banned /

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1. op.cit. I, p.208.

2. Nahḥās, op.cit. p.76.

3. cf. Q.II, 235.

4. op.cit. I, p.207.

5. loc.cit. p.78.

6. op.cit., VI, p.32.

banned for the period of the ʿidda.<sup>1</sup>

Those who had sought to resist the view that Q.LXV abrogated Q.II,240 were finally defeated.

These discussions are fascinating, but are purely academic, departing as they do, to a greater or lesser extent, from the wording of the Qurʾān which, however, they affect to employ. All are directed at the ulterior question of the widow's entitlements. Apart from the ḥadīth we looked at above,<sup>2</sup> the sole authority for the assertion that there had ever been a twelve-month ʿidda, and that there had been an acknowledged restriction on the widow's freedom of movement, occurs in an isolated tafsir-ḥadīth attributed to ibn ʿAbbās: Commenting on Q.II,240, he is alleged to have said: "When a man died, leaving a widow, she observed her ʿidda for a whole year in the husband's home, her expenses being met out of his capital. God subsequently revealed Q.II,234 which is now the ʿidda of the widow, unless she be pregnant, in which case, her ʿidda terminates when the pregnancy terminates. God, in Q.IV,12, detailed the widow's inheritance and so abandoned (taraka) both the waṣīyyah and the maintenance."<sup>3</sup> The allegation is then, that Q.II,234 concerned /

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1. Sarakhsī has: ḥattā tanqadī ʿiddatuki.

2. vide supra, p.146.

3. Tab., Taf. V, p.255.

concerned only the non-pregnant. The pregnant widow is dealt with at Q.LXV,4.

Ṭabarī's isnād: °Abdāllāh b. Ṣāliḥ - Mu°āwiyah - °Alī b. °Abī Ṭalḥa - ibn °Abbās.

Nahḥās' isnād:<sup>1</sup> °Abū Ṣāliḥ - Mu°āwiyah - °Alī b. °Abī Ṭalḥa - ibn °Abbās. °Abū °Ubaid,<sup>2</sup> a century earlier than Ṭabarī, has the same ḥadīth, with an isnād identical with Ṭabarī's.

Of the three versions, Nahḥās' lacks the words: in the husband's house. The position of the words: unless she be pregnant: betrays their origin in tafsīr-disputes, exemplified in the 'assertion' of °Abdāllāh that Q.LXV had been revealed later than Q.II,240. The tafsīr-ḥadīths would be posterior to theoretical disagreements. In the same section, Ṭabarī quotes, as from Qatāda:<sup>3</sup> "When a woman was widowed, she was entitled to both accommodation and maintenance for a year from the husband's capital, so long as she did not remove."<sup>4</sup> This was subsequently abrogated by the revelation of Q.IV in which God stipulated her specific share of the estate. The °idda is four months and ten nights. God revealed Q.II,234. This abrogated the previous situation of the twelve-month arrangement."

While /

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1. op.cit. p.75.

2. fol.87a.

3. loc.cit. p.254.

4. mā lam takhruj.

While it may be possible to infer from this that Q.II,234 abrogated v.240, Qatāda does not actually say that the ʿidda had ever been twelve months. The old twelve-month arrangement had two aspects: throughout that period maintenance was payable out of the estate, providing the widow did not remove herself voluntarily from the matrimonial home, in which the heirs were obliged to provide her with accommodation. No particular ʿidda is mentioned. If, even at that stage, it had been four months and ten nights, the two verses are reconcilable with ease. The widow might not re-marry for four months and ten nights,<sup>1</sup> but beyond that period, if she wished to avail herself of it, accommodation and financial provision must be made available to her, up to a period of one year from the husband's death. If, during the course of the year, but, after completion of the compulsory ʿidda of four months and ten nights, she chose to remove to alternative accommodation, there was nothing in the Qurʾān to hinder her, nor would any blame attach in that case to the heirs. But her maintenance rights are alleged to have been superseded by the Qurʾān's allotting to her a specific share in the dead husband's estate.

A comparison of the Ṭabarī version with that of Nahḥās, suggests that there may have been some misunderstanding of Qatāda's /

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1. Nahḥās, p.74, has: mā lam takhruj fatatazawwaj.

Qatāda's reported views, possibly facilitated, by the absence of punctuation symbols. Nahḥās gives:<sup>1</sup>

"Q.II,240 was abrogated by Q.II,234. Provision for a year without eviction was repealed and replaced by the inheritance shares. The 'idda is four months and ten nights." There is no assertion that the 'idda had ever been twelve months, and to this extent, the ḥadīth differs from the one ascribed to ibn 'Abbās. What seems to have been held abrogated by the inheritance shares, is the 'provision for a twelve-month'. What seems to have been thought abrogated by the four months and ten nights is 'not evicting her for a year.' It is, however, unfortunately, not clear whether Qatāda thought there was any obligation to provide accommodation for the shorter period. The scholars show two views on this: neither provision nor accommodation need be offered; no provision, but only accommodation should be offered. Shāfi'ī seems somewhat uncertain on the obligation to provide accommodation.<sup>2</sup> "Since her accommodation is mentioned in the same verse as the financial provision, it is possible that it too, has been abrogated, whether for the year, or for the shorter period, as the financial provision for the year, and for less, had been abrogated. It is also possible that /

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1. p.75.

2. Umm, IV, p.28.

that the accommodation was abrogated from the year, but endorsed for the shorter period and that the widow is included in the general category of women observing 'idda. On divorced women, God says: 'Do not evict them and they shall not go out.' Since He imposed an obligation to accommodate the divorced, and as the widow has at least this much in common with the divorced, that she has to observe an 'idda, it may be that the widow is also entitled to accommodation. If this be not the case, then the obligation to accommodate her was contingent upon the longer twelve-month regulation. What I recall from the scholars is that the widow is entitled to accommodation but not to maintenance." Ṭabarī quotes<sup>1</sup> al Rabī'a as having commented on Q.II,240: "This was before the revelation of the inheritance verses. Originally the widow was entitled to accommodation and maintenance for the whole year if she desired it. This was abrogated by Q.IV which laid down her specific settlement from the husband's property. The 'idda was prescribed in Q.II,234."

This statement encourages the strong impression that the final sentence in Ṭabarī's version of the Qatāda opinion may have become displaced and probably should follow immediately after the mention of Q.IV. A suggested alternative reading would /

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1. loc.cit. p.255.

would be: "God appointed her a specific share: one eighth if he had had offspring; one quarter in the absence of offspring. This abrogated the previous arrangement of the twelve-month. Her 'idda is four months and ten nights, for God said: 'They will keep themselves in waiting for four months and ten nights.' "

This gives an interpretation to which the Nahḥās' version lends itself without difficulty especially since his: wa nasakha al ḥawl : appears to be verbal, it is masculine, and probably also passive : wa nusikha al ḥawl.

Another Ṭabarī ḥadīth from Suddī,<sup>1</sup> perhaps makes this clearer :

"When Q.II,240 was revealed, a man would make a bequest in favour of his widow, in order to provide her with accommodation and maintenance for a year. Her 'idda was four months and ten nights. If she left his house on the completion of her 'idda, her right to the maintenance lapsed. This is referred to in God's words : 'But if they go out' : This was before the revelation of the inheritance verses. The share, specifically allotted to widows, supplanted the maintenance provisions. Thus, after the revelation of Q.IV the widow had the right to neither accommodation nor maintenance."

Again /

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1. loc.cit. p.256-7.

Again no attempt is made to insinuate that the 'idda had ever been for a year. The ḥadīths to the effect that it had been come immediately under suspicion, as being in support of only one interpretation, and that not the most obvious - an interpretation, indeed, which has every appearance of being an after-thought, a posterior defence of a prior view which we might be convinced only with the greatest difficulty had its origin in the Qur'ān.

What is more interesting is that there is also no attempt to argue that Q.II,234 abrogated Q.II,240. The abrogand is thought to have been Q.IV,12. This clue makes it quite definite that the doctrine does not originate from Q.II, an impartial reading of which makes it obvious that each of the verses concerns a quite different topic. v.234 established the 'idda of widowhood and was followed immediately by v.235: 'Nor is there any harm in your indicating clearly your wish to marry women; nor in your doing so in the secret of your heart. God is aware that you will mention it to them hereafter; but make no secret promises to them, unless it be that you employ acceptable speech and make no firm engagements to marry until the Book shall have expired.'

The ḥadīths had not hesitated to go to the Qur'ān and exploit this final phrase to render themselves more genuine-sounding.

v.240 required the heirs to provide one year's maintenance /



nance and accommodation in favour of the widow, as a right to which she was entitled, and expressly forbade them to turn her out of the matrimonial home during the twelve months. Ṭabarī realised that this 'remaining in the home' and the mourning the husband over that long period had never been an obligation divinely imposed upon the widow,<sup>1</sup> but was merely something God had declared lawful, if she chose to do it. But if she chose to leave the home, no responsibility thereby accrued to the heirs, nor to the widow, in respect of her own lawful behaviour.<sup>2</sup> If she chose to leave freely, and with no pressure from any quarter, that was her perfect Qur'ān-given right, and no guilt would attach to the heirs for not seeking to hinder her.

There being no topic in common between the two verses, there can be no conflict, and hence no talk of abrogation. One naturally asks why it was apparently so important to the scholars to assert this abrogation. A serious practical difficulty in the matter of the widow's rights to both financial and accommodation provision was that this benefit was /

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1. Ṭab. loc.cit. p.261.

2. cf. Mishnah, Ket., 12<sup>3</sup>: "If a widow said: 'I do not wish to leave my husband's house', the heirs cannot say to her: 'Go to thy father's house, and we will maintain thee', but they must maintain her in her husband's house and give her a dwelling befitting her condition."

was seen to have been established in her favour by the Book of God (Q.II,240). An obvious clash of material interest had arisen between the widow and her fellow-heirs, for it could be legitimately argued on her behalf by those acting for her, that hers was a dual entitlement: under Q.IV and Q.II - once as widow, and again as beneficiary. By linking the financial entitlements under Q.II,240, to the 'idda, one could defend the considerable reduction that had been imposed against the widow's claims as widow. This was achieved by 'showing' that the 'idda had once been for a whole year, and that the financial and accommodation provisions had been intimately linked to it. When this had been subsequently reduced to only four months and ten nights, the provision had been affected accordingly. Ḥadīths introduced to make this case, gave plausibility to the assertion that Q.II,240 had been seen to have been repealed on the revelation of v.234. Abrogated, Q.II,240 would cease in its entirety to be valid. Q.II,234 mentioned only the 'idda and was now silent on the provision and the accommodation. The accommodation and the maintenance, it was argued, had both been withdrawn by God. Further ḥadīths about keeping to the house had obscured the issue, for if this were an obligation, it might perhaps be tenable that the provision ought in justice to be made for it. There was thus a reserve rationalisation of the practice. Q.II,240 had spoken of the provision as a bequest (waṣīyyah). This bequest was assimilated /

lated to all other bequests mentioned in the Qur'ān and declared, like them, to have been abrogated on the revelation of the inheritance regulations. The difficulty that it might have been arguable that, with the 'idda now reduced from twelve months to four months and ten nights, the financial and accommodation provisions had been similarly curtailed, and thus were still in force for the shorter period, could be evaded. That this difficulty is not in fact referred to with any frequency in the literature, suggests that the actual mechanism of reasoning had operated the other way round. The validity of the widow's bequest (waṣīyya) had been the first to be questioned in the working out of the complex rules governing inheritances, and assertions about the abrogation of Q.II,240 appended supplementary reinforcement of the settled doctrine that inheritance rights disqualify all other rights to benefit. "I know of no one," Shāfi'ī tells us,<sup>1</sup> "who has expressed a view other than that the financial provision in favour of the widow, whether for the whole year, or for the shorter period, has been abrogated."

To support this doctrine, the scholars, significantly, were forced to go outside the Qur'ān. We know that Mālik's position was that the inheritance verses had abrogated the bequest to the parents, whereas some of his followers had found /

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1. Umm, IV, p.28.

found the abrogand in the Sunna. Shāfi'ī's thinking on the question is outlined in the Risālah:<sup>1</sup> "God says: 'Enjoined upon you when death comes to one of you and he possess property, is the obligation to make a bequest to both parents and to the nearest of kin.' (Q.II,180). God also says: 'And those of you who die, and leave widows, a bequest in favour of the widow of provision for a twelve-month.' (Q.II,240). God further revealed the inheritance shares of the parents, the nearest of kin and of the spouses. The two verses, are therefore capable of being read so as to confirm, as an obligation, the bequest to the parents, the nearest kin and the spouse, over and above the inheritance rights. In effect, they would benefit twice. Alternatively, they could be read so as to show that the inheritance rights abrogated the bequest obligation. The Qur'ān's ambiguity has forced the scholars to seek an indication elsewhere in the Book of God, which however, they failed to find. They turned to the Sunna, where, whatever they accept from the prophet, they accept, as from God, owing to His having imposed upon them the explicit obligation to obey His Messenger. We note that the muftis and the <sup>M</sup>Maghāzī scholars, both of Quraish, and of other tribes, are not in disagreement on the view that in the year of the conquest of Mecca, the prophet said: 'There is to be no bequest /

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1. vide Ris. pp.21-2; cf. Umm, IV, pp.27 ff.

bequest in favour of an heir.'

This they have transmitted from the maghāzī scholars, with whom they were in contact. It is therefore, a universal transmission which is in some respects, stronger than an isolate tradition. We have also noted that, on the basis of this ḥadīth, the scholars were united on this question. Some Syrians relate the ḥadīth, but in a manner unacceptable to the ḥadīth party, and hence we relate it from the prophet, munqaṭi<sup>c</sup>, but we accept it, by reason of its transmission from the maghāzī specialists and by reason of the general unanimity. Although we have mentioned the ḥadīth, we have relied, instead,<sup>1</sup> upon the maghāzī specialists at large, and upon the unanimity. This leads us to conclude that the revealed inheritances abrogated bequests to parents and spouses on account of the general maghāzī tradition, the munqaṭi<sup>c</sup> tradition from Mujāhid and the unanimity in favour of the doctrine!- the 'ijmā<sup>c</sup> is the decisive criterion.

"The majority hold that the bequest to the nearest of kin is likewise abrogated - where they are heirs, by reason of their inheriting; where they are not heirs, by reason of there being no obligation to make a bequest in their favour. Ṭāwūs, and a few who follow him, hold that the bequest /

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1. An appalling dereliction from the standards he requires in the ḥadīths of others!

bequest is abrogated in respect of parents, but persists in favour of such of the nearest of kin as are not heirs. Bequests to persons quite unrelated, are, he held, not however, permitted. Since the Qur'ān is certainly capable of being interpreted in the sense of Ṭāwūs' doctrine, (for the maghāzī ḥadīth says no more than that there is to be no bequest to one who inherits) scholars, in our opinion, should seek an indication which shall be contrary to Ṭāwūs' interpretation of the verse. In fact, we find that the Messenger of God, in the case of six slaves, possessed by a man, who owned no other property, and who had declared them to be manumitted on the event of his death, judged that two only should go free, and the rest continue in slavery. This shows clearly that the prophet deemed that the manumission on death was in the nature of a bequest. The owner of these slaves was an Arab, and an Arabian possesses only mamlukes of non-Arab stock with whom he has no blood relation. The prophet endorsed the legitimacy of that bequest, which argues that bequests in favour of quite unrelated persons are quite permissible. The self-same ḥadīth also established that no bequest may exceed one-third of a man's property. Given this restriction, bequests in favour of persons unrelated, and a fortiori of persons related - providing they be not heirs - are lawful."

This is a fair example of the way in which the Qur'ān, declared /

declared to be ambiguous, is to be interpreted in the light of the Sunna, declared to come from the prophet. The ḥadīth: *lā waṣīyyah li wārithin* - which is clearly a legal maxim, did not extend to the disqualification of the Qurʾān's mention of 'the nearest of kin'. This, therefore, unless one was prepared to accept Ṭāwūs' interpretation of the Qurʾān, in the light of only the one ḥadīth, must be sought in a second ḥadīth, itself posterior to the doctrine that bequests are limited to one-third.

"There are three views on the matter:<sup>1</sup> that the obligation to make a bequest is abrogated in toto. That was the view of ibn ʿAbbās who said, 'The bequest to parents and nearest of kin is abrogated.'

Mujāhid said: 'The issue used to inherit. The ascendants and the kin benefitted only by ad hoc bequests. Subsequently the parents, on gaining the right to inherit, were denied the right to benefit by bequest. The son of Ṭāwūs reported his father as saying: 'Bequests to parents are abrogated, and assigned to the nearest of kin.'

All heirs are excluded from benefit by bequest; such of the kin who are not heirs may benefit by bequest. This is reported by ʿIkrimah as from ibn ʿAbbās, and is the doctrine /

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1. ibn al Jawzī, *Nawāsikh al Qurʾān*, f. 26.

doctrine of: al Ḥasan; Dahḥāk, and ʿAbul ʿĀliyyah.

Qatāda said: Inheritance bars from bequest. Bequests are permitted to non-heirs, related or not." Ṭāwūs' reported opinion that non-inheriting kin might, as of right, continue to benefit by bequest, under the terms of the āya is unexceptionable, if the Qurʾān is to be treated as an independent sovereign source. It was set aside by the majority, without reference to either Qurʾān or Sunna. The ḥadīth on the slaves merely 'establishes' that unrelated persons may benefit, not that related persons may not benefit. The Sunna is, to this extent, deficient. Shāfiʿī re-instated the Ṭāwūs opinion, not however, after consideration of the Qurʾān, but by reasons of conclusions he reached privately (and by istiḥbāb) from the negative deriving from the ḥadīth.

The Ḥanafīs argued that both Q.II,240 and Q.II,180 had been set aside by the Sunna, but Sarakhsī was clearly embarrassed by this view of his predecessors and is at pains to polish their unsophisticated argument.<sup>1</sup>

"In the Qurʾān, there was textual provision for obligatory bequests to parents and kin. This was abrogated by the Sunna: lā waṣīyyah li wārith. This is a mashhūr sunna. /

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1. ʿUṣūl, II, p.69.



sunna. It may not be held that this Qur'ānic obligation was set aside by the Qur'ān's imposition of the inheritance rights, since the Qur'ān, in Q.IV, concerned itself with imposing a second right in their favour. Their rights, under the inheritance laws are not in conflict with further rights which might be established in their favour elsewhere by some other revelation. Where there is no conflict, there is no abrogation. Nor may any assert the possibility that one right was abrogated by a Qur'ān, revealed to that end, but subsequently abrogated, as to its wording alone, with only the ruling continuing operative. For, to open that door, would lead to hesitation concerning the entire sharī'a, since it could be said that there is no rule but might have been abrogated by a Qur'ān revealed, and subsequently abrogated, as to its wording alone. This would lead straight to what the Rāfiqīs assert concerning numerous verses alleged to have contained the divine appointment of 'Alī to the imāmate, whose wording however, has not come down to us. They also contend that the apparent sense of what has been revealed, carries an esoteric sense, which, however, we do not apprehend. The prophet did, as also did the Holy Family. They assert that many rules are hidden to us, for knowledge of which, only reference to the Holy Family will avail. The Muslims have unanimously rejected this doctrine.

The inheritance verse expressly mentions, after the inheritance /

tance, an undefined bequest. The bequest which had been earlier imposed was, however, defined by the article. If this last had still been operative, at the time of the revelation of the inheritance verses, these must surely have spoken of an acknowledged, and hence a defined bequest! The later lack of definition, proves the abrogation of the earlier rule. Moreover, abrogation is of two sorts : the establishment of a ruling in such a way as to indicate the termination of a ruling hitherto in force; and, the transferring the same ruling from one object to another, as occurred for example, when the direction of prayer, although remaining an obligation, was transferred from Jerusalem to the Ka'ba. The abrogation of the bequest to the parents and kin by the revelation of the inheritance verses was of this sort. God had originally delegated to men the designation of the share He wished to be passed on to each of the two groups, according to the degree of the relationship between the legator and the legatee. Subsequently, however, God took personal charge of specifying the share due to each in an unambiguous manner. Thus the rule on bequests to parents and kin was determined; its object being now attained in the most efficacious manner. This is what was alluded to by the prophet when he said: 'God has appointed to every claimant his due right - there will be therefore no bequest to any heir.'<sup>1</sup>

Abrogation /

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1. cf. Mekkī: op.cit. Qauluhu: al waṣiyyah lil wālidayn.

Abrogation, effected, in this manner, is equivalent to transfer. We hold that the termination of the obligation to make the bequest in favour of parents and kin is ascertainable from the Qur'ān, but that the abrogation of the legitimacy of making such bequests is not so ascertainable, since the termination of the obligation does not necessarily imply the termination of the legitimacy of doing so. We come to learn that the abrogation of the obligation implied the termination of the legitimacy solely from the Sunna. In this sense alone, is it proper to refer to the Qur'ān in proof of the abrogation of the bequests in favour of the parents and the nearest kin."

Shāfi'ī preserved "from more than one specialist in Qur'ān science the assertion that Q.II,240 was revealed earlier than Q.IV. Some held that Q.II,240 had been revealed simultaneously with Q.II,180 and that the bequest to the wife was restricted to the year's maintenance. This meant clothing her, accommodating her and that the husband's kin were prohibited from evicting her from the matrimonial home, although she was not forbidden from voluntarily removing herself, which, if she did, reflected no guilt upon the husband's heirs, nor upon the husband, if they had no hand in her removal, nor indeed, upon the widow herself. But, if she did remove, she would simply relinquish a right to which she had a proper and valid claim. The scholars held /

held that the bequest covering her needs for the twelve months had been abrogated. God declared her to be entitled, instead, to a specific inheritance allotment. He imposed upon her the four months and ten nights' 'idda, during which period, she is not to go out, even voluntarily, and before the expiry of which, she is not free to re-marry. The Sunna has indicated her obligation to remain in the matrimonial home until the Book shall have expired, unless she be pregnant, in which case, her 'idda is determined by the childbirth, be this late or soon, the termination of the pregnancy superseding the four months and ten nights. That the bequest of the year's maintenance had been set aside by the inheritance laws of Q.IV is a matter on which, to my knowledge, there is neither discussion nor disagreement among scholars. Nor is it disputed that the widow must observe a four months and ten nights' 'idda. The doctrine of the majority of scholars coincides with the Sunna, to the effect that the 'idda of the pregnant widow, and of all pregnant women required to observe an 'idda, is determined by the childbirth. The same is true for the majority doctrine that she must observe her 'idda in the matrimonial home and has no liberty to remove. That also coincides with the conclusions to be derived from the Sunna."<sup>1</sup>

Shāfi'ī showed himself no more able than his predecessors /

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1. Umm, V, p.205.

sors to rid his mind of this confusion between 'without evicting them' of Q.II,240 and 'do not evict them, nor shall they go out' of Q.LXV. A mind unburdened by any necessity to see abrogation as between Q.II,240 and Q.II,234 would have had no difficulty in reading both Baqara verses, and Q.LXV, and appreciating that all three treat independently of their respective topics, with no need of ever being brought together for comparison. Shāfi'ī's constant habit of referring, on the question of financial provision and accommodation rights from Q.II to Q.LXV, on the plea that both concern women obliged to observe an 'idda, would have similarly been quite unnecessary if his earliest predecessors had taken the Qur'ān as their starting-point, and had kept in view the essential distinction between the divorced and the widowed, for each of which the Qur'ān had legislated separately. Shāfi'ī himself failed to resolve the problem of the accommodation rights. It is clear that scholars who transfer the obligation to remain in the matrimonial home (if there be such an obligation) from the divorced to the widowed, likewise transfer from the husband of the divorced, to the husband of the widowed, the obligation to provide that accommodation. But the husband of a widow, Shāfi'ī ruefully observes, is already dead. This essential distinction between him and the husband of the divorced, raises fundamental theoretical questions on property rights. It is perhaps natural that the distinction made between the 'idda /

‘idda of the widow who is pregnant, and of the widow who is not pregnant, should arise, especially after the widow, pregnant or otherwise, had been denied her Qur’ānic right to the year's financial support and accommodation. Although the Qur’ān does not allude to pregnancy, the possibility of its occurrence may well underlie the generous provisions of Q.II,240, which would allow for any normal pregnancy. Once however made, the distinction was exploited to reinforce the connection alleged to exist between Q.II,234 and Q.LXV,4 and thus provide another link in the chain of arguments urging the fact of the abrogation of Q.II,240. The Muslim exegete, observing that the right to remove, mentioned in v.240, and unrestricted by any minimum or maximum time-limit, and assuming - on the basis of mere assertion - that v.234 had been revealed later, concluded *e silentio*, that that right, since no longer mentioned, was no longer valid, and so forged yet another connection to his reading of Q.LXV,1: 'You shall not evict them, nor shall they remove.'

"Q.II,240 contained four *‘aḥkām*:<sup>1</sup> the year, later reduced to four months and ten nights; the financial and accommodation rights, abrogated by the inheritance regulations; God had originally awarded these to her as a bequest, as He had provided for the parents and the nearest of kin. All were abrogated by the inheritance regulations. There was also mourning, /

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1. Jaṣṣās, *‘Aḥkām*, I, p.498.

mourning, indicated by the āya, but endorsed by the Sunna. Fourthly, her right to remove, the prohibition of which is endorsed (by not having been abrogated in v.234)."

If one reads the whole Baqara passage from v.234 to v.240, on the assumption that the verses dealing with both widowhood and divorce were revealed as a unit, in which v.234 stipulated the minimum period that must elapse before the re-marriage of the widow is permissible, and v.240 the financial and accommodation arrangements to be made in her favour for that period, it is clear that she retained, because she had never lost her right to remove, if she wished to do so. The doctrine that she had lost that right, is the residue of an argument that the ʿidda had been reduced from an original twelve-month, alleged to have been imposed by v.240. That argument was secondary to the assertion that the bequest in her favour had been abrogated.

The ʿidda of v.234 according to Shāfiʿī, is ambiguous;<sup>1</sup> for it is capable of being read as imposed generally upon all widows, free and slave alike, pregnant and non-pregnant. It is also capable of being a reference restricted to free women to the exclusion of slaves; or to the non-pregnant, to the exclusion of the pregnant. Apparently only the Sunna indicates /

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1. Umm, V, p.205.

indicates that the reference is to the non-pregnant,<sup>1</sup> and that in respect of pregnant women who must observe an ʿidda, divorce by the husband and death of the husband, as dissolvents of marriage, and attracting the incidence of the ʿidda are identical.

"I know of no scholar who would dispute that the slave-spouse, who is pregnant, has the same obligation as the free woman, in respect of the minimum period to be observed before she is accounted free to re-marry, whether following divorce, or the death of the husband.

Mālik - ʿAbd Rabbihi b. Saʿīd - ʿAbū Salama b. ʿAbdul Raḥman: ibn ʿAbbās and ʿAbū Huraira were questioned about the ʿidda of the pregnant widow.

ibn ʿAbbās said: 'The later of the two terminations.'

But ʿAbū Huraira said: 'When she has given birth, she is free to re-marry.'

ʿAbū Salama went in, and asked ʿUmm Salama, the prophet's widow, who told him that Subaiʿa of B. ʿAslam, had borne a child fifteen days after her husband's demise, and that two men sought her hand in marriage. One was youthful, the other middle aged. She accepted the court of the younger at which the older suitor insisted that she was not free to re-marry. Her kin were not present, and he hoped that on their /

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1. Umm, loc.cit. p.206.



their coming, they would prefer him. But she went to the prophet, who told her that she was free to re-marry, and might choose whom she pleased."

Shāfi'ī repeats the ḥadīth in a second version, similar to that of Naḥḥās. via ibn Mas'ūd, he quotes also the 'Abul Sanābil version. Yet another version,<sup>1</sup> attributes to ibn 'Umar a fetwa to the effect that the pregnant widow is free to re-marry on giving birth. He was then advised that his father, the caliph, had taken the view that, if the widow were to give birth while her husband lay on his bier, she was free to re-marry. In this ḥadīth, there is no mention of the prophet.

The widow, whether pregnant or not, is entitled to no financial provision. Jābir b. 'Abdallāh held that the widow was entitled to nothing, she already received her due under the inheritance allotment.

Shāfi'ī considers this to hold good, even if the widow, being a mushrika, or a slave, were entitled to no inheritance share.

The systematic reasoning underpinning this doctrine, is that a man's property rights die with him.<sup>2</sup> Cross-reference to regulations on the divorced had not contributed to this harsh conclusion. Compare, Q.LXV,6:

"If /

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1. Umm, loc.cit. p.206.

2. ibid. p.208.

"If they be pregnant, maintain them until they have given birth."

Clearly, the references back to Q.LXV are arbitrary, selective, and hence, artificial. They operate only so long as they appear of use in documenting doctrines, of which they are visibly not the source.

Q.LXV,I reads: 'Do not evict them nor shall they remove, unless they commit an open abomination.' The verse, says Shāfi'ī, treats of the divorced. But widows, like divorced women, must observe an 'idda. It is thus possible that, in respect, both of the obligation to provide the divorced with accommodation, and the prohibition of their eviction, this verse indicates that widows are in the same situation as the divorced, just as they are in the same situation as divorced women, in the matter of the obligation to observe an 'idda. The Sunna had indicated that the widow is obliged to remain in the matrimonial home until the Book shall have expired. It is thus possible that, in the matter of the obligation to provide the accommodation, the reference is restricted to the divorced woman's husband since he still retains rights in his property, but that no such obligation falls upon the husband of the widow, since, once he dies, his rights in property are lodged in other persons, and that the accommodation of the widow lies in the discretion of his heirs(?)<sup>1</sup>

Mālik /

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1. There is a gap in the published edition at this point.

Mālik - Sa'd b. ʿIṣḥāq - his paternal aunt, Zeinab : al Furai'a bint Mālik, the sister of ʿAbū Sa'īd al Khudrī, told her that she had gone to the prophet when her husband was killed by runaway slaves, to ask if she might go home to B. Khudra. He had left her without either accommodation or funds. The prophet at first granted her permission, but shortly after, changed his mind, and called for her again, to say: 'Remain in your house, until the Book shall have expired.' 'So,' she says, 'I observed my ʿidda there for four months and ten nights. Later, when ʿUthmān was caliph, he sent to ask me about this point. I informed him, and he adopted the same doctrine, and ruled accordingly.' "

The same doctrine Shāfi'ī adopts, and concludes that if the house be rented, for example, the rent is to be paid by the divorcing husband, or out of the estate of the dead husband. The husband may not evict the divorced wife from the house, whether he is the owner or not since she has the same legal right and title against him as the tenant against the owner, providing the rent is regularly forthcoming. If one, is however, discussing widows, two views are possible: that what applies to the divorced, applies in exactly the same terms to the widowed; those who held this view asserted that the prophet's words to Furai'a indicate that the widow is entitled to her accommodation, the cost to be met from the husband's estate. The house in which she is lodged may be neither /

neither sold, nor cast into his divisible property for the benefit of the heirs, until her 'idda is accomplished. The second view is that her accommodation is at the discretion of the heirs. If they do not choose to accommodate the widow, they it is who own the property, the husband retaining no property rights beyond death. She will have no right to accommodation, as she equally has no right to financial provision. The advocates of this doctrine held that the prophet's words to Furai'a can be interpreted: 'Remain in your house [so long as you are not turned out, if it belongs to another]. Furai'a had explained to him that the house was not her husband's. If the widow owned the house, or if the husband's kin owned the house, and did not turn her out, she may not leave it, until her 'idda has expired.

Muzanī considered this view to be the one more in line with Shāfi'ī's general views,<sup>1</sup> since the widow receives no financial provision, pregnant or not, and since the husband's property rights had expired with him. The accommodation would cease to be his to dispose of. The Muslims are unanimously of the view that those whom a man is obliged to support and accommodate in his lifetime - the parents and the offspring - cease to enjoy their claims on his death, since /

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1. Mukht. V, p.31.

since his property passes beyond him to his estate, which now becomes the property of his heirs. This applies equally to his widow, who with the man's issue, and other heirs, jointly inherits the whole of the property.

The doctrine that neither maintenance nor accommodation need be provided even when the widow is pregnant is attributed to the Companions:<sup>1</sup>

ʿAbdallāh b. ʿAbbās; ibn al Zubeir and Jābir; to the Successors: al Ḥasan al Baṣrī; ibn al Musayyab; and ʿAṭāʾ; to the scholars : Mālik; ʿAbū Ḥanīfa; Zūfar; ʿAbū Yūsuf; Shaibānī, and Shāfiʿī. A most impressive list of 'authorities'.

On the question of maintenance, the contrary view is attributed to: ʿAlī; ibn Masʿūd; ibn ʿUmar; Shuraiḥ; Jallās b. ʿAmr; Shaʿbī; Nakhaʿī; ʿAyyūb al Sikhtīānī; Ḥammād; Thawrī and ʿAbū ʿUbaid, all of whom are held to have agreed that maintenance should be provided out of the undivided estate.

Qubaiṣa b. Dhuʿaib thought that it should come from the share due to the child she is carrying.

The 'proof' of those who argued that the widow is entitled to no financial provision is the ʿijmāʿ on the loss of /

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1. Naḥḥās, op.cit. p.79.

of maintenance rights by the man's related dependants on his death.

The systematic concept that a man's property rights are extinguished on his death is encountered in an unexpected quarter. This is in the context of Ṭabarī's efforts to resolve the 'reading' of Q.II,240:<sup>1</sup> Some read the word 'waṣīyyah' in the nominative; others prefer the accusative. The interpretation of the accusative reading is: [the husbands must make] a bequest in favour of the widows; or, [it is incumbent upon them that they make]. Various constructions have been placed upon the nominative reading. Some say it is the equivalent of: a bequest [is imposed upon you]... This is reported to have been the actual 'reading' of ʿAbdallāh b. Masʿūd. Its interpretation would be: A bequest in favour of the widow [is enjoined upon] those of you who die and leave widows ..... Others, although employing the 'ʿUthmān' text, argue for the nominative, on the grounds that the declension is notionally nominative, given the immediately foregoing interpretation. This argues that the so-called 'ʿAbdallāh reading' is merely a tafsīr, based on the so-called 'ʿUthmān text'. Yet others who read a nominative, justify it on the grounds that 'waṣīyyah' is a post-placed mubtadaʾ.

Ṭabarī /

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1. Taf. V, pp.251-2.

Ṭabarī declares his personal preference for the nominative, not only on the basis of the first of the two linguistic arguments, - i.e. he has accepted 'Abdallāh's tafsīr, but insists on 'Uthmān's text - but also on the basis of his own doctrinal position that before the revelation of Q.II,234, the right of the widow to remain in the matrimonial home for an entire year had been her legal due, irrespective of whether the husband had made out a bequest in her favour or not. This he based on the principle that the meaning of the term 'bequest' is the arranging, during one's lifetime, for the posthumous disposal of one's property. Such arrangements can, however, be given effect, only after death, yet it is absurd to suppose that after death any man can dispose of anything. God had nevertheless granted the widow her right to a year's accommodation, after the husband's death. This therefore must have been a right guaranteed to the widow by God, direct, and without reference to the husband, who had ceased to exist.

The accusative reading, which pre-supposes that the bequest is dependent upon the act of the husband, envisages an absurdity - the ability to act after death. Furthermore, were the widow's right dependent upon the act of the husband, and he neglected to act, it would be lawful for the heirs to evict the widow, which, however, God had expressly forbidden. Ṭabarī adduces, in favour of his conclusion, ḥadīths from: Qatāda; /

Qatāda; Rabīʿ; ibn ʿAbbās; Ḍaḥḥāk; ʿAṭāʾ; Mujāhid and ʿAbdul Raḥmān b. Zeid b. ʿAslam.

Those holding that the benefit depended upon the husband's act included: Qatāda; Suddī. But it is the Qatāda ḥadīth which brings out very clearly the juxtaposition of the Q.II,240 bequest, with the other bequests mentioned in the Qurʾān. "A man would make a bequest<sup>1</sup> in favour of his wife and whomever else he pleased. This was abrogated by the inheritance regulations .... the faculty of benefitting by bequest was then restricted to the nearest kin who were not entitled to inherit."

Ṭabarī concluded that God had granted the widow direct, the accommodation and the financial provision for twelve months and had prohibited the heirs from interfering with her rights. The widow herself was, however, free to abdicate her claims. The financial provision had later been abrogated outright; her rights to accommodation had been reduced by seven months and twenty nights. It might be worth quoting in this connection the words of Mishnah, Ket.,4<sup>12</sup>:

"If the husband had not written for her: 'Thou shalt dwell in my house and receive maintenance from my goods so long as thou remainest a widow in my house,' he is still liable, since this is a condition enjoined by the court." Also of /

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1. loc.cit. p.256.



of interest for the whole sphere of these questions is: Mishnah, Ket., 12<sup>3</sup>: "If a widow say: 'I do not wish to leave my husband's house,' the heirs cannot say to her: 'Go to thy father's house, and we will maintain thee.' They must maintain her in her husband's house, and give her a dwelling befitting her condition. If she said: 'I do not wish to leave my father's house,' the heirs may say: 'If thou continuest with us, thou wilt receive maintenance; but if thou continuest not with us, thou wilt not receive maintenance.' "

This wording is closer to the regulations of Q.II,240 than is the doctrine of the Muslim *‘ulemā* and *fuqahā*. The hollowness of Ṭabarī's conclusion appears from the mere consideration overlooked by him, that the four months and ten nights is not the widow's right, but an obligation imposed upon her, which she is not at liberty to neglect. The twelve months he does not consider as ever having been such an obligation and, hence, on his own terms, could not be said ever to have been abrogated. For Ṭabarī had declared in his lost work:<sup>1</sup> "There can be no *nāsikh* affecting the Qurʾān or the ḥadīth, other than such as suppresses a previously valid divinely revealed imposition."

### Conclusions /

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1. K. al Bayān ‘an ‘uṣūl al ‘aḥkām, vide Taf.II,p.535.

Ṭabarī incidentally in this statement informs us why it was that the "original *‘idda*" had to be shown to have been twelve months.

Conclusions

Q.II,240 and Q.II,234 were never in conflict. They did not even treat of a common topic. No acceptable evidence on a disparity of revelation dates has anywhere been adduced. The verses are capable of simultaneous implementation, as Shāfi'ī himself admitted. v.234 imposed the 'idda - the minimum period that must elapse between the death of one husband and valid re-marriage to another. v.240 declared the widow's entitlement to both financial provision and accommodation from the dead husband's estate, up to a maximum period of twelve months, a legal right the widow was to enjoy whether pregnant or otherwise. It was thus not contingent upon her being pregnant, and generous enough to include any normal pregnancy. The verse was thus general in application to all widows and allowed even for posthumous pregnancies.

These undeniable rights of the widow had been tampered with in the post-Muḥammedan period and the Muslims sought to justify their doctrine by forcing an unwarranted connection between the provision for the widow and bequest in favour of persons other than spouses. All bequests to related persons had been suppressed to avoid setting up two categories of beneficiary: those who benefitted both before and after the division of the property; this included the widow, the parents and the nearest of kin; and single beneficiaries who would be satisfied only at the division of property.

No /

No mention is made in the arguments, that in those very inheritance verses which they regularly appealed to as having abrogated bequests, there occurs a four-times repeated refrain to the effect that the division of the estate is to occur only after deduction from the capital of such bequests as had been indicated by the decedent.<sup>1</sup> Metaphysical arguments were exploited to suggest that a man is legally incapable of disposing of property after death, both since no man can be said to act after death, and because his property rights terminating at death, the property is no longer his to dispose of after it has passed to the heirs. A bequest is not however a posthumous, but a prehumous contract legally maturing only after death. The systematic argument was not complete for it should logically have invalidated all classes of bequests not merely selected categories of bequests which chance to clash with the legal maxim: *lā waṣīyyah li wārith*.

An attempt was made to evade the maxim in the counter-argument that the widow's rights were not contingent upon the husband's act but had been conferred direct by God without reference to the husband, the owner of the property in life. The differing attitudes on this question had given rise to, and had not originated in a variant 'reading'. Further, such a variant could be based, not only on a 'non- /

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1. Q.IV, 11, 12 (3 times). cf. Sarakhsī's tafsīr, supra p. 181.

'non-ʿUthmānic' but even on the 'ʿUthmānic' text. The variant doctrine had inspired an appeal beyond the consonantal outline of the Qurʾān with reference to ʿUthmān's contemporary ʿAbdallāh. The application of the metaphysical principle that dead men cannot act did not exclude his acts towards non-inheriting kin, or quite unrelated beneficiaries. This exposes the origin of the argument structure in the legal maxim that no individual may benefit twice over from the one estate. Not from Qurʾān texts, but from an abstract legal principle incompatible with the Qurʾān, all other arguments, whether tafsīr-ḥadīths, or sunna-ḥadīths were amassed to proceed inexorably to a predetermined conclusion.

It is interesting indeed to note that the maxim itself in the course of prolonged disputes, and especially in the context of the methodological dispute as to whether the Sunna can or cannot be held capable of abrogating the Qurʾān developed by modification of its form, in that it incorporated expressions that fitted it for use in those circles which argued that only the Qurʾān can abrogate the Qurʾān. It thus passed from being a naked sunna-ḥadīth to take on the appearance of a bayān-ḥadīth: "God has granted to all who have valid claims their legal due; there will therefore be no bequest to an heir." Muḥammad was thus made to testify to the view that bequests to parents, and nearest of kin who are also heirs, and to the widow had been abrogated, not /

not by the Sunna, but by the Book of God.

The developed form of the ḥadīth is post-Shāfi'ī who, as we have seen, was in its absence, at much greater pains than he need have taken had he known the ḥadīth in this version, which so exactly represents his methodological principles on the question of abrogation.<sup>1</sup>

The inconsistencies in the various appeals to tafsīr, with persons holding contrary views, nonetheless, appealing to the same verses, or remaining silent on inconvenient verses - a procedure facilitated by, perhaps, even dictating the selectivity and atomism of the tafsīr, and the unnecessary complications imported into the discussions, by the confounding of the regulations governing divorce, with those governing widowhood, the appeal to uncontrollable ḥadīth materials on the frank admission that the scholars had failed to find in the Qur'ān indications in support of the doctrine, all points to a conclusion that the impulse to declare one Qur'ānic verse abrogated by another, not evidently in conflict with it, came from outside the Qur'ān. The Qur'ānic bequests to the parents, the nearest of kin and the widow, had evidently come into conflict with the settled doctrine on inheritances. The Qur'ānic verses which unequivocally had /

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1. Both Mekkī (op.cit. bāb qawlihi: al waṣiyya lil wālidayn.) and Sarakhsī (ʿUṣūl, II, p. 70) employ the modified form of the ḥadīth to establish the abrogation of the Qur'ān by the Qur'ān on this point. The former employs the meaning but is unaware of the wording!

had imposed those bequests, when urged in their favour, became the casualties of the clash. The exclusion of the pregnant widow, by appeal to a qiyās based on Q.LXV,4 was one device to sow the seed of the concept of abrogation within Q.II. This was then extended to the relation alleged to subsist between Q.II,240 and Q.II,234 specifically. Those scholars represented by the appeal to the alleged opinions of ʿAlī and ibn ʿAbbās that, in the event of pregnancy, the widow's ʿidda was the later of the two expirations - the pregnancy or the ʿidda - had fought a hopeless rearguard action to preserve at the least a semblance of adherence to the text of Q.II,234 but were overwhelmed by references to the alleged opinion of ibn ʿUmar which was then verified by projection from the son to the father, and to the father's contemporary, ʿAbdallāh, until ultimately sealed by reference to the alleged opinion of the prophet. It was further asserted that it had been the prophet in person who had declared, by reference to God, the original one-year ʿidda reduced to one of only four months and ten nights.

Exclusion of pregnant widows from the terms of Q.II,234 is the function of the Subaiʿa ḥadīth. Reduction of Q.II,240 is the function of the ḥadīth from ʿUmm Salama. The grand circle of argument was completed by the Furaiʿa ḥadīth which attributed to the prophet the connection of Q.II,234 to Q.LXV where the words: fa lā yakhrujna, cement Q.LXV to Q.II,240 /

Q.II,240 which reads : fa 'in kharajna. If Q. II,240 could be shown to have been abrogated, in one aspect by certain verses, it would thereby be made the easier to maintain, and with a degree of plausibility, that it had further been abrogated in a second aspect by other verses. Hence the 'idda of the widow was assimilated to that of the divorced woman, as the bequest to the widow had been assimilated to the bequests to others.

Such exercises in tafsīr represent a belated attempt to adjust the Qur'ān texts to a previously settled doctrine, fundamentally incompatible with, because initially formulated in disregard of the Qur'ān.

The view that the twelve-month provision had been withdrawn in toto was assured by arguing the reduction of an alleged older 'idda to the later one. Ṭabarī can report this as the opinion of : Qatāda; Rabī'; ibn 'Abbās; Ḍaḥḥāk; ibn Zeid; 'Ikrimah and al Ḥasan. It was Ṭabarī's own view, although he modified it somewhat by hesitating to regard the 'older 'idda' as ever having been obligatory. Significant for our purposes is his general conclusion that the statutory Qur'ānic obligation upon the heirs to support the widow for any period had indeed been abrogated by the inheritance verses.

Q. II, 240 has thus, alternative abrogands : Q.II, 234 and/or Q. IV.

## CHAPTER SEVEN

The third mode of naskh - naskh al tilāwa dūna al ḥukm.

Had the Qur'ān been the source of the Islamic penalty for fornication, the locus, it might be thought, must have been Q IV 15-16 : "Those of your women who commit abomination, seek the testimony of four of your number against them, and should they swear, detain the women in quarters until death release them, or until God appoint a procedure. Those two of your number who commit abomination, punish them, and if they repent and do good works, turn aside from them. God is ever relenting, merciful."

The points in these verses most subject to dispute are : the meaning of 'your women'; fāḥisha and 'those two of your number', and, since the punishments imposed by the verses differ, whether the persons of v 16 can be the same as those referred to in v 15.

For Ṭabarī, the expression : ' your women' establishes that this is a reference to the 'muḥṣan', whether they have a husband or not.<sup>1</sup> He further makes it clear that the clause ' or until /

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1. Taf. VIII, pp. 73 ff.



' or until God appoint a procedure', marked the Qur'ānic discussion from the outset, as a temporary measure, and he adduces evidence from the tradition scholars to this effect. It is clear that ' the procedure that was to be appointed' was read as a reference to the Islamic penalty. The scholars were divided on the meaning of 'fāḥisha', and the majority, who interpreted this as zinā, somewhat illogically acknowledged v 15 to be an exclusive reference to women, reading, however, the following verse as a reference to the male/female partners in a single act of fornication. The substitution of the common gender dual pronoun 'lahumma' for the Qur'ān's 'lahunna' in the expression : ʿaw yajʿal allāh lahunna sabīl, exhibits the transition from the Qur'ān text to the tafsīr doctrine, attributed to both ibn ʿAbbās and Qatāda. "Subsequently," is Qatāda's argument, " God appointed the way for the women; the muḥṣan was flogged one hundred strokes and stoned; the non-muḥṣan was flogged one hundred strokes and banished for a year." The ibn ʿAbbās doctrine had improved on that of Qatāda, for the latter had read the references in both verses as indicating two classes of women, while the former had extrapolated the male component of the dual of v 16 and had thus extended 'the way that was to be appointed' to sexual offenders of both sexes. Such procedures show that the consideration /

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1. The reference is to the celebrated ʿUbāda ḥadīth;  
vide infra p. 231.

consideration of the Qur'ān verses was undertaken retrospectively by persons who knew what the post-Muḥammedan Islamic penalty was, and who understood that it had not originally been of Qur'ānic origin. Thus, the view that the later penalties, applied to both males and females, abrogated the earlier situation is held indifferently by those who argue that v 15 refers to females and v 16 to males, and by those who argue that v 16 refers to the non-muḥṣan, while v 15 refers to the muḥṣan. The Qur'ān, as we see, does not make this distinction, which could, therefore, be advanced only on non-Qur'ānic grounds. There is reason to suppose also that Ṭabarī failed to understand that certain earlier views he quarrelled with may have envisaged v 16 as a reference to males only,<sup>1</sup> and hence to homosexual conduct; by implication, v 15 might therefore have been regarded as a reference to lesbianism. Such views, however, play only a very minor part in the general Muslim discussion of these two verses.<sup>2</sup> Ṭabarī could combat the dissenting views only on linguistic grounds. The general opinion was that Q IV 15-16 had been abrogated: some say by Q XXIV 2, others, quite simply, by the Islamic penalties. In the statements quoted by Ṭabarī from his sources a variety of views is expressed on 'the later situation'./

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1. loc, cit. p. 83.

2. cf. Baiḍāwī, Taf., ad. loc. and cf. Sa'īd al-Anṣārī, Multaqat Jāmi' al-Ta'wīl, Calcutta, 1340, p. 44.

situation'. These include assertions that the later penalty was flogging; or flogging followed by stoning; or flogging followed by stoning for certain categories of offenders, and flogging followed by a year's banishment for certain other offenders. Ṭabarī sums up these views by concluding that God had abrogated His verses by His later revelation of the penalty to be applied to each of the categories of offenders mentioned in Q IV 15-16 respectively. Deciding that the penalty envisaged at v 15 was the harsher, which indicated that the offence was the more heinous, he concluded that the 'locking up for life' had been imposed upon the 'thayyibs'; and that the lighter v 16 punishment had been imposed upon non-thayyibs.<sup>1</sup> Such conclusions, with their mention of 'thayyib', non-thayyib, muḥṣan and non-muḥṣan can be reached only by reading back into the Qur'ān the later penal situation as this had evolved in the post-Muḥammedan ages. As Ṭabarī expresses it, this must be so, since the 'way' which God had appointed for the thayyibs - stoning - is in fact harsher than that appointed for the non-thayyibs - sc. one hundred strokes and banishment.<sup>2</sup> The 'sabil' for the non-thayyibs God appointed in Q XXIV 2, which abrogated Q IV 16; that for the thayyibs in the stoning penalty introduced by His prophet.<sup>3</sup> This is based on the reliability of the reports that /

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1. p. 84.

2. ibidem

3. p. 86.

that the prophet had stoned without flogging, and on account of the unanimity of the Tradition evidence, which, so long as it be unanimous, is incapable of error, lapsus linguae, or untruth.<sup>1</sup>

The penalty for fornication in the Muwaṭṭa':<sup>2</sup>

Mālik quotes ḥadīths showing ʿUmar, ʿUthmān and Muḥammad stoning various persons for adultery in a variety of circumstances. The purpose of such reports is to inculcate a belief in the consistency of the practice of the ʿimāms of the Medīnan age. In the cases reviewed, condemnation was based solely upon either the confession of the culprit, or upon an unexplained pregnancy. Information is also adduced in support of the view that the self-condemnation should be four times repeated. The persons involved were either married, or described as 'muḥṣan', or non-virgin. Stoning, it is here alleged, was the penalty imposed by Muḥammad, ʿUmar, ʿUthmān (and acknowledged by ʿAlī) on both men and women who had been non-virgin at the time of committing a sexual misdemeanour. What was the origin of this gruesome penalty nowhere mentioned in our Qurʾān texts ?

ʿAbū Huraira and Zeid b. Khālīd al Juhanī both report that two men brought a dispute before Muḥammad. One said :  
'Messenger /

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1. p. 80.

2. K. al Ḥudūd.

'Messenger of God, judge between us, according to the kitāb allāh.' The other, who was more informed on legal matters,<sup>1</sup> said : Yes, Messenger of God, judge between us according to kitāb allāh, and permit me to speak first. My son was a hired labourer under this fellow, but fornicated with the man's wife. He informed me that my son was liable to stoning, so I ransomed my son for one hundred sheep and a slave-girl I had. Subsequently I enquired of learned men who informed me that what my son had incurred was one hundred strokes and a year's banishment and that the penalty of stoning lay on this man's wife. The Messenger of God replied: By Him Who holds my soul in His hand, I will judge between you according to kitāb allāh. Your cattle and slave-girl are to be restored to you. He awarded the son one hundred strokes and banished him for a year. He then ordered 'Unais al 'Aslamī to go to the man's wife, and, in the event that she confess, awarded her the penalty of stoning. She did confess and he did stone her. ( i.e. on the strength of her confession.)

It is important to note where the prophet's alleged words in the above ḥadīth end. What the report does, is indirectly borrow Muḥammad's authority to support several propositions : that the penalty for the married fornicator is stoning; that guilt may be ascertained by a confession; that the penalty for /

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1. The purport of this detail is not clear. The reference may merely be to the reinforcement provided by his repetition of "kitāb allāh", unless indeed, we are to suppose that he

for the unmarried fornicator is flogging and banishment. Both types of penalty represent the law according to kitāb allāh. These same propositions are to be found summarised in a legal maxim expressed in ḥadīth form :  
 ‘Abdallāh b. ‘Abbās said : I heard ‘Umar b. al Khaṭṭāb say : Stoning, in kitāb allāh is a rightful claim against a man or woman, when muḥṣan, and when valid proof is adduced, or pregnancy occurs, or a confession is offered.

The foregoing series of ḥadīths in K. al Ḥudūd had been offered in verification of these several principles. But what is the meaning of this curious expression : kitāb allāh ? Many attempts have been made to answer the question; an analysis of these will prove most instructive :

‘Abdallāh b. ‘Umar said : The Jews came to the Messenger of God and mentioned that a man and woman of theirs<sup>1</sup> had fornicated. The Messenger said to them : What do you find in the Torah on the matter of fornication ?<sup>2</sup> They replied : We humiliate them and they are flogged. But ‘Abdallāh b. Sallām said : You are lying, it contains the 'stoning verse' ! They brought the Torah and spread it out, but one of them put /

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was familiar with the maxim : al bayān ‘alā al mudda‘i .

1. min hum cf. Q IV 15-16: min nisā’ikum and minkum - i.e. of the Muslims.

2. The text has : ' in the matter of fornicators', but cf. Ṭabarī, taf., X p. 328, ' concerning fornication'.

put his hand over the 'stoning verse'.<sup>1</sup> 'Abdallāh b. Sallām said to him : Lift your hand. He did so, and there was the 'stoning verse' in the Book. The Jews said : He spoke the truth, Muḥammad, it does contain the 'stoning verse'. At this, the Messenger of God gave the order, and they were stoned.

Muḥammad, in his capacity of ḥakam to the heterogeneous population of Medīna, when approached by non-Muslims for a decision, not only assumed jurisdiction, but apparently judged according to the code of the litigants. The Jews in our story were thus judged on the basis of the Torah, which was found to contain the stoning penalty.

Perhaps, it was alleged, kitāb allāh means the Torah. The ḥadīth is thus secondary to a source theory, and further, secondary to a particular tafsīr. It also pre-supposes the arguments on the Qur'ānic verses referring to the 'kitmān' of the Jewish scholars, and exhibits only one side in a purely internal Muslim squabble on the interpretation of Q V 42-49, on the question of jurisdiction. On this last, various views had emerged, again conveniently collected by Ṭabarī in his comment on v 42 : " And if they come before you, either judge between them, or refuse to hear them. If you refuse, they will not harm you. But, if you judge, do so equitably (?)<sup>2</sup> for /

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1. A very naive tafsīr of 'kitmān'.

2. bil qist.

for God loves the equitable." The passage occurs in an address directed by God to the prophet, on the question of jurisdiction, in the course of which, certain Jews are very harshly spoken of as constantly ready to swallow any calumny on Muḥammad's teachings, and particularly apt to misrepresent his words, when he does decide issues between them.

'But how,' asks God, 'should they ask you to judge between them, when they have the Torah, in which is the verdict of God, and they turn their backs on that ? '

"The prophets who have submitted (ʿaslamū) have judged the Jews on the basis of the Torah, and the rabbis and the hebers have given judgment on the basis of what they have been entrusted to preserve of kitāb allāh. Whoso does not judge according to what God has revealed is an unbeliever."

God had revealed to Muḥammad the Law, verifying and proclaiming belief in the Law which had preceded it.

"Judge therefore, between them on the basis of what has been revealed and let not their merely human opinions divert you from the truth that has come to you. To each party We have appointed a way and a procedure."

On what basis would Muḥammad have judged the non-Muslims ? Everything in the subsequent Muslim discussions turns upon the interpretation of this last verse and particularly on whether v 42 is to be regarded as continuing valid. Can the Muslim ḥakam claim the freedom of choice whether to ignore or whether to hear a case involving dhimmīs ? Or is this verse/



verse abrogated ? Some held the verse to be still valid and that the Muslim ḥakam indeed retained his choice, as the prophet had had it, and had exercised it. The point of the Muwatṭa' ḥadīth on the Jews will, from this, now be evident. It was urged that if the Muslim judge agreed to hear the case, he must render judgment on the basis of what God had revealed. This view is traced to 'Aṭā'; 'Amr b. Shu'aib; Qatāda; 'Ibrāhīm and Sha'bī<sup>1</sup>, from which last, however, two views are reported : that such judgment might be rendered solely on the basis of Muslim Law is the view that is relevant here.<sup>2</sup> Other reports narrow the doctrine still further by insisting that in cases of homicide and theft specifically, there was no alternative to the Muslim judge but to decide on the basis of the Muslim Law.<sup>3</sup> Here, however, there is no mention of sexual offences.

The reports, unfortunately, but perhaps designedly, leave entirely open the meaning of the ambiguous expression : 'what has been revealed' : and besides, make no clear reference to cases of fornication.

Others held that the liberty of choice of the judge had been abrogated, and that cases brought by dhimmīs must be heard.<sup>4</sup>

'Ikrimah, /

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1. Tab., taf., X, pp. 329-30.

2. p. 329.

3. ibidem.

4. p. 330 foot.

°Ikrimah, Ḥasan, Mujāhid and Suddī were reported as arguing that the nāsikh was the imperative in: "judge between them on the basis of what God has revealed."

°Umar b. °Abdul °Azīz is said to have written a letter to his governor, °Adī b. °Adī, commanding him to give judgment, when approached by °ahl al kitāb.

Zuhri's view was that, in matters of claims, or inheritances, °ahl al kitāb should be referred to their co-religionists, but that if they came to the Muslim judge on some penal matter, he should render judgment on the basis of kitāb allāh. Zuhri it was, who told Mālik the story of the two men who came to Muḥammad.

Kitāb allāh means, at least to Mujāhid, kitābu nā.<sup>1</sup> But, in view of the lack of an °ijmā° on this question, and the absence of an authentic statement from the prophet that one of the two āyas is mansūkh by the other, and considering that there is no conflict between the āyas, Ṭabarī concludes<sup>2</sup> that there remains complete freedom of choice to the Muslim judge to hear or to refuse to hear cases brought by kitābīs. If, however, he decides to hear, he must give judgment solely on the basis of Muslim Law, on the basis of kitāb allāh.

'But how should they ask you to judge them, when they have the /

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1. p.332 foot.

2. p.334.

the Torah, in which is the verdict of God?' When a nobleman fornicated with a woman of lower caste, the Jews would stone the woman.<sup>1</sup> They would blacken the face of the nobleman, and put him up on a camel, facing the rear. When a low caste man fornicated with an aristocratic Jewess, they would stone the man, and put her up on the camel. The Jews brought a case to the prophet, and he stoned the woman. He said to the Jews: 'Who is your foremost Torah scholar?' They indicated so and so, the one-eyed. The prophet sent for him and when he came, the prophet said: 'You are their foremost Torah scholar?' The man replied: 'So the Jews say.' The prophet said: 'I adjure you by God and by the Torah He revealed to Moses at Mt. Sinai: What do you find in the Torah respecting fornicators?' He replied: 'Abu al Qāsim, they stone the low caste woman, and put the nobleman up on a camel, they blacken his face, and they face him towards the rear; they stone the low caste man when he fornicates with a high caste Jewess, and do to her as to the nobleman.' But the prophet said: 'I adjure you by God, and by the Torah which He revealed to Moses on Mt. Sinai, what is in the Torah?' The man replied: 'Abul Qāsim, I find in the Torah the words: "al sheikh wa al sheikha ʿida zanayā fa rjūmūhumā al battata.'" The Messenger of God said: 'That is it. Take them and stone them.'

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The authority, both for this and for Mālik's ḥadīth on the Jews is ibn ʿUmar, and the last sentence of this and of Mālik's ḥadīth, is identical. This ḥadīth, therefore, and Mālik's, suggest that kitāb allāh = Torah. Both ḥadīths are in line with one of the tafsīrs of Q.V,v.49. Each is differently influenced by the Muslim doctrine on the Jewish kitmān.

" 'Why should the Jews ask you to judge between them, Muḥammad, and be content with your verdict, (if you are not a prophet) when they have the Torah, which I revealed to Moses, which they confirm to be the Truth, and assert that it is My kitāb which I revealed to My prophet, and that the Law it contains is My Law. This they know; they neither repudiate this among themselves, nor reject it. They are further aware that in the Torah, My verdict on the 'muḥṣan' fornicator is stoning. Yet, knowing all this, they ignore it, out of bravado against Me and from disobedience.' How should they accept Muḥammad's verdict, when they dispute his prophethood, having already dared to ignore the verdict of Moses, whose prophethood they insist upon? ibn ʿAbbās is alleged to have said: 'At this point, God informed His prophet of His injunction in the Torah';<sup>1</sup> Suddī,<sup>1</sup> Ḥasan<sup>2</sup> and ʿIkrimah<sup>3</sup> explain that this refers to stoning. Suddī seems to /

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1. p.337 and cf. p.314.

2. p.319, p.341.

3. p.351, p.340.

to have explained the words: 'The prophets who have submitted, have judged the Jews, according to the Torah': as a direct reference to Muḥammad."<sup>1</sup>

There is a story from ʿAbū Huraira:<sup>2</sup> "The Jewish hebers assembled in the synagogue, when Muḥammad first came to Medīna. One of their number<sup>3</sup> had fornicated, after ʿihṣān, with a Jewish woman, after her ʿihṣān, and the Jews said: 'Take them to Muḥammad, and ask him what is the rule in their case. Give him the right to judge them,<sup>4</sup> and if he treats them according to your practice, then you may follow him, he is but a king.'<sup>5</sup> But, if he award the stoning penalty, then beware - he will rob you of what you enjoy (sc. religious leadership). [i.e. he will be a genuine prophet].<sup>6</sup> When they questioned the prophet, he went and consulted the scholars in the synagogue, the most learned of whom were ʿAbdallāh b. Ṣurīyā, the one-eyed; ʿAbū Yāsir b. ʿAkhṭab, and Wahb b. Yehūdā." In this version of the story, however, Muḥammad /

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1. p.338.

2. p.303. ʿAbū Huraira joined Muḥammad only at Khaibar, year 7.

3. One of the Jews? or one of the priests?

4. i.e. the judgment given will be Muḥammedan rather than pentateuchal.

5. Does the word "King" suggest anti-Umayyad propaganda?

6. Reads like a determined Muslim attempt to relate the Islamic penalty to a revealed source, i.e. kitāb allāh.

Muḥammad, far from asking the ḥebers for information, informs them: 'Do you [not] know that God has decreed stoning in the Torah, for him who fornicates after ʿiḥṣān?'<sup>1</sup>

A third version<sup>2</sup> shows Muḥammad passing a Jew, who had been flogged and had his face blackened. Muḥammad importunes the Jewish scholars upon the real penalty for fornication, and, in the end, forces the Jews to admit that the penalty of the Torah had been abandoned, when fornication became so widespread among the Jewish upper classes that a lighter penalty had had to be agreed upon. Muḥammad exclaims: "I am the first to revive Your commandment, oh God, after they had killed (suppressed) it."<sup>3</sup>

In another version, the prophet, having been approached by the Jews to judge a case of fornication says: 'I shall judge according to what is in the Torah!<sup>4</sup> cf. Mālik: I shall judge according to the Book of God. (supra p.208). Ṭabarī preserves material which illustrates an attempt to explain the expression kitāb allāh, which occurs in v.44 as the /

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1. See previous page, note 6.

2. p.304.

3. cf. ibn Hishām, Sīra, p.393 ff. "I am the first to revive God's command and His kitāb and put it into practice."

4. p.306 cf. p.340.

the Torah,<sup>1</sup> which God revealed to Moses. He quotes, in addition, from the Torah, the alleged actual words of the alleged 'stoning verse': "al sheikh wa al sheikha 'ida zanayā fa rjumūhum mā al battata."<sup>2</sup> Ṭabarī approves of and accepts all this.

None of the ḥadīth materials adduced by Ṭabarī on these questions conceal their true origins in anti-Jewish (combined with pro-fiqh) propaganda. The underlying motive which unites the reports is two-fold: a. to trace the Islamic stoning penalty to a revealed source (kitāb allāh); and, b. to counter-act the objections of the Jews: "Muḥammad is a liar - there is no stoning in the Torah, so do not believe him."<sup>3</sup> The measure of Jewish perfidy is laid bare by the Qur'ān's alleged mention of their taḥrīf/tabdīl and kitmān activities.<sup>4</sup> The contents of the ḥadīths adduced by Ṭabarī establish that Muslim scholarship did not understand the references in Q.V,41 and the three following verses. v.41 speaks simply of taḥrīf al kalim. Ṭabarī enlarges this: "the /

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1. pp.345-6; pp.341, 342; vide p.343: kitāb allāh alladī huwa al tōrah.

2. p.328 other words are quoted, vide infra p. 222;271.

3. p.312.

4. Q.V, v.41 which has been misunderstood and taken with childish literalness.

"the meaning is the hukm of the verses.<sup>1</sup> God speaks economically of the tahrīf of the words, confident that His hearers will supply the word 'hukm' for themselves." Perhaps it was important that the Muslims should misunderstand the verses, if they were to achieve their primary defensive objective. In doing so, they showed a fundamental misapprehension likewise of the Jewish practice. Thus, Muḥammad is made to assert that God had decreed, in the Torah, the stoning penalty for fornication, after 'ihṣān. The Jews had kept this quiet, since they realised that Muḥammad was a genuine prophet who would expose their unjustifiable substitution of a flogging penalty of their own devising for the revealed stoning penalty, and, since sexual irregularities were so common among the Jews they feared things would go hard with them. Even when questioned by this authentic prophet, the scholars of beit al midrās at Medīna had dissembled and had lied about the contents of their Torah. To their chagrin, Muḥammad insisted on rendering judgment in accordance with the provisions of the Torah. Despite the fact that he quite correctly defines this kitmān elsewhere as the suppression of their realisation that Muḥammad was the prophet whose description they recognised in their Torah,<sup>2</sup> Ṭabarī persists in simultaneously approving of ḥadīths, all of which refer to their suppressing the penal clauses of the /

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1. Q.V, v.41 speaks of tahrīf al Kalim - i.e. it is not a reference to any revealed Book.

2. p.308.



the Torah. The materials adduced are a confused jumble of unhistorical *ʿasbāb al nuzūl* and of anti-Jewish propaganda. There is, however, a second ḥadīth strain, through Qatāda, which makes it clear that an alternative body of *ʿasbāb* referred none of these Qurʾānic statements to the law on sexual misconduct, but explained them as concerned rather, with deviations from the regulations revealed in the Torah to govern feud law. The basic motivation of the materials is once more clear. Like the other, this second train of *ʿasbāb* is based upon indifferent tafsīr setting out, not from v.41, but from v.45, which, at least, is a definite reference to the Torah verses on the talio. The opposition between these two strands is expressed by ʿUbaidallah b. ʿAbdullah b. ʿUtba b. Masʿūd who explicitly accuses "many of the Muslims of interpreting these verses on grounds of *ʿasbāb* other than those which had occasioned their revelation."<sup>1</sup> In his view, the verses concern inequities in the differential rates of blood-wit exacted by elements of the Jewish tribes at Medīna. Only the anti-Jewish colouring is common to both views. They vary only on the positive assignment of the verses in favour of this or that chapter of the fiqh. On both views, kitāb allāh may be regarded as the Torah. One of Ṭabarī's ḥadīths combines both interpretations.<sup>2</sup>

#### Ḥadīths /

1. p.352.

2. pp.327-8.

Ḥadīths of this sort appear here, on account of the procedural dispute among the Muslims as to whether the Muslim judge has jurisdiction over dhimmīs, and if so, on the basis of which Law is he to render his judgment. Some say he has freedom of choice and may refer the dhimmīs to their co-religionists. Others that the freedom of choice has been abrogated, and that the judge must not only hear them, but must render judgment on the basis of what God has revealed. But on the definition of this vague expression the most serious divergence of opinions occurs. Both Shaʿbī and Ibrāhīm al Taimī are credited with the following progression of attitude: what God has revealed<sup>1</sup> = kitāb allāh<sup>2</sup> = the Islamic code.<sup>3</sup>

ʿIkrimah is credited with the opinion that Muḥammad and his predecessors in the prophetic office judged, in accordance with the Torah.<sup>4</sup> For Ṭabarī, kitāb allāh, in certain contexts, and especially that of the stoning penalty, is certainly a reference to the Torah. This is also true of Zuhri, who is prominent in that ḥadīth strand which concerns the references to the stoning penalty<sup>5</sup> that is in the Torah, and /

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1. p.329.

2. pp.330, 335.

3. p.329.

4. p.340.

5. vide pp.303; 305; 338-9. The attribution of these ḥadīths is unstable.

and who is credited with the dictum: "This verse, (sc. v.42) was revealed in connection with the stoning penalty."<sup>1</sup> Thus, we find in these ḥadīths, corresponding to Mālik's: I shall render judgment in accordance with the Book of God; I shall render judgment in accordance with the Torah. That the musnad is the same in both cases does not relieve our confusion.<sup>2</sup>

Two versions of the wording of the 'stoning-verse' in the Torah are given: 'if one of your number fornicates, stone him';<sup>3</sup> and 'al sheikh wa al sheikha °ida zanayā farjumūhumā al battata'.<sup>4</sup>

Mālik preserves a ḥadīth which gives however a quite different interpretation of the vague expression: kitāb allāh:" °Umar came back to Medīna from the ḥajj, and addressed the people as follows: 'Men, the precedents have been laid for you, the obligatory duties have been imposed upon you, and you have been left in absolute certainty - unless, that is, you stray with the people to left or to right.' He struck one hand against the other, saying: 'Beware /

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1. p.325.

2. See previous page, note 5.

3. p.310.

4. p.328.

'Beware lest you neglect, and so lose the 'stoning-verse'!  
 Some say: 'We do not find two penalties in the kitāb allāh',-  
 but the Messenger of God did stone, and we have stoned, and  
 by Him, in Whose hand is my soul! but that men might say:  
 'Umar has added something to kitāb allāh, Most High,' I  
 would have written it: "al sheikh wa al sheikha f arjumūhumma  
 al battata" - for we recited it."

This confused ḥadīth attempts to say two things at  
 once: that stoning is definitely a sunna; and that stoning  
 is virtually a Qur'ān.

Sa'īd b. al Musayyab added: "The month of <sup>2</sup>dhul Hijja  
 had not quite slipped away, until 'Umar was killed."

This solicitude for the dating of an 'Umar dictum is  
 significant.<sup>1</sup>

The equivocal wording of the ḥadīth makes it extremely  
 difficult to know whether it conveyed to Mālik the idea  
 that 'Umar was asserting that the 'stoning-verse' is properly  
 part of the Qur'ān; but the use in the ḥadīth of the terms  
 'āya' and 'qara' tends to make it virtually certain that  
 this was the intent of the ḥadīth. This impression is  
 strengthened by 'Umar's admonition that the 'stoning verse'  
 be not lost by being neglected; and by his determined over-  
 ruling /

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1. i.e. it was among 'Umar's latest statements. The ḥadīth  
 is thus influenced by naskh theory.

ruling of the protests of those who rejected the stoning penalty on the grounds that they do not find two penalties in kitāb allāh, by his counter assertion that he was minded to write it into the Book. The reason ʿUmar gave for not writing the 'stoning verse' into the Qurʾān text was his fear that men might accuse him of adding to the Book of God. This explanation of the absence of this verse from our texts will occupy us more fully hereafter, but it is sufficient, for the moment, to recall the ḥadīths we noted above, which offered other explanations of the expressions 'stoning-verse' and kitāb allāh. Further, we are almost certainly invited to draw from this ḥadīth the inference that the Qurʾān had already been collected and promulgated before ʿUmar's reign, for he hesitated even to appear to add to the text. The date of the Qurʾān collection being material to this sort of question, the ḥadīths on the Qurʾān collection cannot now be read, therefore, in isolation from the question of stoning, or indeed from the whole discussion on abrogation.

Another version<sup>1</sup> of this same ḥadīth is explicit that the 'stoning verse' was not part of the Qurʾān, and that, moreover, ʿUmar knew that it was not. ʿUmar said: "The Messenger of God stoned, ʿAbū Bakr stoned, and I have stoned; but that I am not prepared to add to the kitāb allāh, I should have written it into the muṣḥaf, for I fear that folk will come, who, /

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1. Baihaqī, al Sunan al Kubrā, VIII, p.212 ff.

who, not finding it, will not believe in it." i.e. Stoning is the Sunna. There was therefore a disputed allegation that it had once figured in the Qur'ān text.

In Tirmidhī,<sup>1</sup> we read: 'Umar said: "God sent Muḥammad with the Truth, and revealed to him the kitāb, part of what was revealed being the 'stoning-verse'. The Messenger of God stoned, and we stoned after him, and I fear, lest, with the passing of time, some will say: 'We do not find stoning in kitāb allāh,' and will thus fall into error by abandoning (taraka) an obligation which God has revealed."<sup>2</sup>

In Baihaqī,<sup>3</sup> there is an addition to this text: after the words, 'the stoning-verse' 'Umar says: 'We recited it, and got it by heart.' i.e. words normally reserved for references to the Qur'ān.

We have it also on the authority of those great Qur'ān scholars, 'Ubayy b. Ka'b and Zeid b. Thābit that the 'stoning-verse': 'al sheikh wa al sheikha 'ida zanayā f arjumūhumā al battata' was originally part of the Qur'ān. 'Ubayy even recalled /

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1. abwāb al ḥudūd. [Mabsūṭ v. IX, p. 36 : part of the Qur'ān.]

2. i.e. stoning is the Sunna. The Sunna must not be judged in the light of the Qur'ān. Kitāb allāh = the revealed Law of God, i.e. Qur'ān and Sunna. This version is a harmonisation.

3. Sunan al Kubrā, loc.cit.

recalled<sup>1</sup> that it had once been part of the originally longer version of Q.XXXIII than we now possess. Marwān asked Zeid whether they should not add it to the text. Zeid thought not, and explained that this had previously been suggested, in the presence of ʿUmar,<sup>2</sup> who had said: 'I'll solve that problem for you.' We asked him how, and he said: "I'll go to the prophet, and speak about this and that, and when he mentions stoning, I'll say: 'Messenger of God, let me write the 'stoning verse'.'" ʿUmar did this, but the prophet replied: 'I cannot let you write it.'<sup>3</sup>

In the ʿUmar ḥadīth in Nisāʾī,<sup>4</sup> as quoted by ibn Ḥajar, in the version Saʿīd b. Ibrāhīm - ʿUbaidallāh(?) b. ʿAbdallāh b. ʿUtba, ʿUmar says: "Some are saying: 'What is this stoning? in kitāb allāh the penalty is flogging,' but I say the Messenger of God stoned etc...." Here, indubitably, kitāb allāh = Qurʾān and the flogging verse referred to, is Q.XXIV,2. Stoning, in ʿUmar's words, is the Sunna of the prophet.

Throughout all these discussions, two questions are mooted /

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1. vide supra p.88-9 ʿUbayy was opposed to suppressing what was once revealed.

2. But not, apparently, by ʿUmar himself.

3. Baihaqī, loc.cit.

4. Quoted in F.B.XII, p.123. The objection is to the stoning penalty.

mooted, and for the purposes of analysis, these must be treated separately. The first question is the bald assertion that Muḥammad had stoned fornicators. The second concerns the basis of that penalty.

°Ahmed, °Isma'īlī and al Ṭabarānī have all quoted,<sup>1</sup> from Hushaim, as from Shaibānī that he asked: "Did the Messenger of God ever stone?" The reply given was: "Yes, he stoned two Jews."

Shaibānī said:<sup>2</sup> "I asked °Abdallāh b. °Abī °Awfa: 'Did the Messenger of God ever stone?' He replied that he had. I asked: 'Before Q.XXIV or after?' He replied that he did not know."

That the question of whether Muḥammad had ever stoned had even had to be asked is extremely interesting as evidence that there were at least some, within Islam, who doubted the historicity of such a penalty. The point of the second question, ibn Ḥajar informs us, is that if the stoning had occurred before the revelation of Q.XXIV, then it would be possible to argue that the stoning penalty is mansūkh (replaced) by the flogging penalty introduced by this Sūra. But, if the stoning occurred later than the date of the revelation of the sūra, then this fact could be employed to establish /

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1. F.B.XII, p.140.

2. Muslim: bāb rajm al yahūd.



establish that the flogging penalty had been nasakhed, at least in respect of the 'muḥṣan'. Other versions of the ḥadīth, however, do not ask whether the stoning had occurred before or after the revelation of Q.XXIV, but whether it had occurred before or after the revelation of Q.V.<sup>1</sup> The real core of the dispute is from this clear: he who mentions Q.V conceived, from the ḥadīth's mention of the stoning of the two Jews, that it was Q.V which was the deciding limit, since it was this sūra which had been revealed on account of the Jews questioning Muḥammad about the penalty for Jews who had fornicated.<sup>2</sup>

"Some have found<sup>3</sup> the very mention of 'kitāb allāh' in the story of the ʿasīf a difficulty, since they argued, the prophet never gave a decision, except on the basis of kitāb allāh.<sup>4</sup> For others, the problem lies in the penalty, since stoning is not mentioned in the Qurʾān. They therefore explained the phrase 'kitāb allāh' to mean here: what God has decided, and imposed upon His creatures, i.e. the revealed Law /

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1. F.B. XII, p.140. It was Buchārī himself who raised this question.

2. i.e. the question is thus: which Kitāb allāh is the source? The Tōrah or the Qurʾān? vide supra, p. 216, n. 6.

3. F.B.XII, p.115.

4. The ʿasīf ḥadīth was therefore designed to answer the question: On what source was the stoning penalty based? The reply being Kitāb allāh - sc. a revealed source.

Law of God. Others have held that 'kitāb allāh' here, does mean the Qur'ān, and this is certainly what first springs to one's mind. But ibn Daqīq al °īd has said that the first explanation is to be preferred, since neither stoning nor banishment is mentioned in the Qur'ān, except in the general injunction to obey the prophet. "There may be something in this," thinks ibn Ḥajar, "for it is possible that the reference is to God's words: "°aw yaj°al allāh lahunna sabīl."

Subsequently, the prophet said that by this 'sabīl' was meant: the flogging and banishment of the virgin; and the stoning of the non-virgin fornicator.<sup>1</sup> On the other hand, the reference to 'kitāb allāh' might well be to the Qur'ān, to that āya whose tilāwa has been abrogated: "al sheikh wa al sheikha °idā zanayā f arjumūhumā" - and this was the answer returned by Baiḍāwī to this question.<sup>2</sup> Only, the āya does not mention banishment. Another approach, is to argue, as some do, that 'kitāb allāh' means the Qur'ān, and that the reference is (not to the penalties but) to God's prohibition of using up men's property without due grounds, for the man had taken the other's cattle and slave girl without rightful title. This was why the prophet, judging by 'kitāb allāh', returned the cattle and the slave girl.<sup>3</sup> But God knows best!"

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1. i.e. the celebrated °Ubāda ḥadīth. vide infra, p. 231.

2. cf. Minhāj al wuṣūl: bāb al naskh.

3. cf. supra, p. 208, (foot ). This comment confirms a suspicion that a ḥadīth has been extended.

In 'Amr b. Shu'aib's version, these problems do not arise, for there, the prophet says: 'I shall certainly decide between you bi al ḥaqq.' "This," says ibn Ḥajar,<sup>1</sup> "suggests that the best interpretation is that by 'kitāb Allāh' is meant, not the Qur'ān, but God's decision and His injunctions." Another problem, occasioned by the verdict of flogging and banishment imposed on the man's son, is usually met, in the absence of a specific reference in the ḥadīth to his status, by supposing that the man's son was a virgin.<sup>2</sup> 'Amr b. Shu'aib's version again solves this difficulty, for he has: 'My son was this man's wife's labourer, and he was non-muḥṣan.'

Both Buchārī's and Mālik's version of the ḥadīth have been used to establish what neither, in fact states. 'Amr's version of the ḥadīth is formally necessary to establish the distinction between the two penalties laid down for the two categories of offenders - the 'muḥṣan' and the non-'muḥṣan'. That distinction is a constant factor in these ḥadīths, and we shall have to enquire into its origin. This, inevitably, is bound up with the whole question of the stoning penalty, and we have not yet reached any positive conclusion on the question /

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1. loc.cit.

2. Shāfi'ī, *Ikh*, p.251. ibn Ḥajar, v.XII, p.117: Nawāwī says that the prophet's sentence is to be interpreted in the sense that he knew the man's son was "bahr".

tion of what was thought to have been its origin. Three alternatives have so far been proposed : that stoning was the Sunna of the prophet; that it is kitāb/allāh - by which is meant the Torah; that it is kitāb/allāh - by which is meant the Qur'ān. All three explanations have this in common, that a revealed source had come to be demanded.

Because Shāfi'ī discusses the question of stoning in considerable detail, it is worth while to spend some time examining his views, from which we shall be led to a solution to our problem.

Both the locking up and the punishment of Q IV 15-16 were abrogated in kitāb/allāh - sc. Q XXIV 2.<sup>1</sup> For Shāfi'ī, kitāb/allāh represents the Qur'ān. The 'asīf story proved that Q XXIV's flogging applied only to the virgin offender.<sup>2</sup> We are informed, as from 'Ubāda b. al Ṣāmit, that the prophet said : Take it from me, take it from me, God has appointed a way for them (lahunna) - the virgin with the virgin, one hundred strokes and a year's banishment; the non-virgin with the non-virgin, one hundred strokes and stoning.<sup>3</sup> Subsequently /

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1. Ris. p. 20-21.

2. Ikh., p. 251. F.B., XII, p. 117.

3. The difficulty arises here that the 'Ubāda ḥadīth is earlier than Q XXIV: the 'endorsement' of the hundred strokes must therefore be conveyed by another document - this is the role of the 'asīf story.

Subsequently, the 'asīf Sunna indicated that the Qur'ān's and 'Ubāda's flogging were endorsed in respect of free virgins only, but abrogated in respect of the non-virgin, while stoning alone was endorsed for the free non-virgin.

The expression : God has appointed a way introduced the first penalty to be revealed, and by it were abrogated the locking up and the punishment. Furthermore, when the prophet stoned Mā'iz and the wife of the 'Aslamī without flogging them he indicated the abrogation of flogging in respect of the free non-virgin. The non-free are excluded from these provisions, for God said of the slave women : ' and when they enter under 'ihṣān, if they should commit abomination, their penalty shall be half that for the muḥṣan women'.<sup>1</sup> This can refer only to flogging, since stoning, a capital penalty, is indivisible. The prophet said : 'If one of your slave-girls fornicates, and her fornication is proven, flog her.' He did not say : 'Stone her'. The Muslims are not disagreed that no slave incurs stoning.

This is only a clever debating point. The real issue here is that the prophet did not say : 'when she is under 'ihṣān'.

What precluded Shāfi'ī in his discussion from drawing the obvious conclusion that if the slave woman's penalty is thus attested to be flogging then the free woman's penalty must be double /

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1. Q. IV 25.

double that of the slave woman, was the for him, undeniable presence in the ḥadīth of materials which purported to document the Sunna. The conclusion which Shāfi'ī, as ṣuṣūlī, might have drawn from the facts as presented in the ḥadīth was that the Sunna had, on this occasion, abrogated the Qur'ān. Such is the conclusion which his reasoning inevitably invites. It was not, however, the conclusion he drew, being, as he was, acutely conscious of the very serious consequences which must flow from an admission which would have had two cutting edges.

Expressly to avoid being drawn into such an admission, he laboriously constructed a most elaborate and highly admirable apparatus of quite artificial reasoning which he set out in detail in the Risālah and to which he consistently appeals throughout his other writings.

The theory consisted of three principles : None but the prophet embraced the entire Arabic language<sup>1</sup>; there can be no real conflict between any two statements proceeding from God; <sup>2</sup> any such conflict appealed to by scholars, is merely apparent and cannot be properly evaluated, nor satisfactorily resolved without a clear comprehension of the mechanism of revelation. That depends upon further principles which can be summed up in two words : takhṣīṣ and bayān. The first he seeks to establish /

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1. A device to supplant linguistics as a tafsīr tool by imposing the view that tafsīr depends upon the Sunna.
  2. Ris. p. 22, foot, and passim.

establish by reference to several Qur'ān verses which he claims are either both apparently and really general in intent, or only apparently so, but really particular in intent.<sup>1</sup>

As its name implies, takhṣīṣ is a principle of harmonisation and has significance when two documents fail to tally exactly. Bayān, like takhṣīṣ, is a device which Shāfi'ī seeks to justify by arguing that certain verses of the Qur'ān are not explained precisely or fully until one considers other, more specific passages. The point of his three principles is that the elucidation of any passage may occur in the Qur'ān, but more often in fact, occurs in the Sunna of the prophet. Included in bayān are thus those ḥadīths on topics mentioned in the Qur'ān, but which being fuller in their wording than their Qur'ānic counterparts, are held to provide the Qur'ān's elucidation, or even completion, since there is also a kind of bayān provided in the ḥadīth on topics on which there is no divine utterance.<sup>2</sup> This bayān Shāfi'ī justifies by reference to numerous verses in which the Qur'ān imposed, as a religious obligation, the duty of implicit obedience to Muḥammad, and unquestioning adherence to his decisions.

For Shāfi'ī, the Sunna is thus self-subsistent, sovereign and in principle Qur'ān-based. One of the chief characteristics of the Sunna quā bayān is that it serves to indicate takhṣīṣ /

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1. Ris. p. 10.

2. Ris. p. 5.

takḥṣīṣ - it operates as an instrument to exclude certain categories from the apparently general utterance of the Qur'ān. God said : 'But if they ḥaṣṣanna ( / ḥuṣṣinna) !... Q IV 25. Here the Qur'ān alone indicated that God excluded slave women from the provisions of Q XXIV 2. Similarly, when the prophet stoned the non-virgin fornicator without flogging him, the Sunna alone indicated that the category of offender intended by Q XXIV 2 was the free virgin fornicator to the exclusion of all others included in the linguistic expression 'fornicator'. Were we to decide solely in accordance with the apparent meaning of the Qur'ān, we would flog every fornicator, free and unfree, virgin and non-virgin.<sup>1</sup>

This clearly demonstrates the contradictions between the Qur'ān and the settled doctrine. The apparatus of takḥṣīṣ - bayān is merely a device - admirable in its ingenuity - for resolving the painful dilemma occasioned to the scholar by the undeniable conflict between his sources. Using it, Shāfi'ī was enabled to rebut those ḥadīths contrary to the ḥadīths he accepted, and, more important, to preserve ḥadīths flying in the face of the contents of the Qur'ān.

He next turns to a series of verses in which the word 'ḥikmah' occurs, in association with the word 'kitāb', to find in them Qur'ānic justification for the primary role he would /

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1. Ris. p. 13.



would arrogate to his Sunna principle. God had imposed the obligation of obedience to both His wahy and the sunan of His Messenger. God speaks of the kitāb, which is the Qurʾān, and He mentions the ḥikmah,<sup>1</sup> and I have heard one whom I approve from among the Qurʾān scholars say that the ḥikmah means the Sunna of the prophet. This is similar to what God says, since He speaks of the Qurʾān (sic) then follows it by speaking of the ḥikmah. When God speaks of teaching them the kitāb and the ḥikmah as a divine favour, it is not possible to hold that ḥikmah here can be other than the Sunna, because the ḥikmah is joined to kitāb ʾallāh (sic). Furthermore, God imposed as a solemn religious obligation the duty of obedience to His prophet, and insisted that men follow his command. It is not possible to say of any source that it is enjoined upon us, save only that of kitāb ʾallāh and the Sunna of His Messenger. The Sunna is the mubayyin, on God's behalf, of the meaning that God intended and God has not assigned such a role to any of His creatures other than Muḥammad. God advised the prophet's contemporaries that whoever disobeyed God and His Messenger had gone sadly astray.<sup>2</sup> Similarly, those who have survived the prophet are required to refer to the decision of God and of His prophet.<sup>3</sup> God informed men that when they call upon the Messenger /

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1. Q II 129; Q III 164; Q II 151; Q II 231; Q IV 113; Q XXXIII 34.

2. Q XXXIII 36.

3. Q IV 59.

Messenger of God to judge between them, they call upon the judgment of God, for the ḥākīm is the envoy of God.<sup>1</sup> When they accept the decision of the prophet, they do so, in accordance with God's injunctions, God having informed them that Muḥammad's verdict is God's verdict, in the sense that God has made the acceptance of Muḥammad's verdict a religious obligation, but also in the sense that God has eternally preceding knowledge that He will assist Muḥammad with His ʿiṣma and His tawfīq. Obedience to Muḥammad is obedience to God. God further informed His creatures that He had imposed upon Muḥammad implicit obedience to God's every command. This is supported by : "Follow what is revealed to you from your Lord."<sup>2</sup>

"There is no God beside Him. Ignore the associators. We have set you upon a path of the affair, so follow it, not the whims of those who are not instructed."<sup>3</sup>

God informed Muḥammad of His prescience of the ʿiṣma<sup>4</sup>:  
 " Messenger, communicate what has been revealed to you from your Lord. If you do not, you have not acquitted your mission."

Muḥammad has himself testified to his faithfulness to his mission : " I have omitted nothing of that wherewith God commands you, nor anything of that which He has forbidden."<sup>5</sup>

Where the Sunna is attested on matters where there is no ḥukm of God, it was by the ḥukm of God that the Sunna was established /

1. Ris. p. 15.

2. Q VI 106.

3. Q XLV 17.

4. Q V 71.

5. Ris. p. 15.

established. God has left no loophole by which we can escape the Sunna. [Ris. p. 15.]

The relation between the Sunna and the Book of God is two-fold: the first is where there is a text in the Book, which the Messenger of God follows, as it was revealed. The other is where the text in the Book is general, and the Messenger of God in his Sunna elucidates, on God's behalf, what God intended by His general utterance in the Qur'ān. The Sunna in all such cases, acts to provide the takhṣīṣ of the general Qur'ān statement and to indicate any exclusions. In both kinds of situation, the Messenger of God is following the Book of God. I know of no scholar who disagreed that the prophetic sunan fall into three categories. On two of them they are unanimous :

1. Matters on which God revealed a text, and the Messenger laid down a sunna exactly on the lines of the text.
2. Matters on which God revealed a general text and the Messenger of God provided, on God's behalf, the elucidation of precisely what God had intended.

The third category, matters on which there is a sunna but no Qur'ānic text, is disputed.<sup>1</sup> For Shāfi'ī the Sunna is part of that with which Muḥammad was inspired. Anything on which a kitāb was sent is kitāb ʿallāh. Men stand in need of the prophet /

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1. An increasing tendency to appeal to the Qur'ān would explain readiness to accept the first, but hesitation on the third. vide K. Jāmi' al ʿilm, pp. 1-2.

prophet, and when his Sunna provides the bayān, on God's behalf, of the precise meaning that God intended in that which He enjoined upon us, in matters where there is a text, how much more is it the case that men need him in matters on which there is no text.<sup>1</sup> The Sunna thus, in Shāfi'ī's day, had not quite prevailed over the Qur'ān, although it was well on the way to doing so. Questions had been levelled at many doctrines, and providing these could be linked, in however tenuous a fashion, to some text in the Book, a case could be made out for their defence.<sup>2</sup> It remained only to bring into this category of matters such doctrines as had no apparent connection with the texts of the Qur'ān. Any alleged conflict between the Qur'ān and the Sunna, argued Shāfi'ī, was only apparent and illusory. The ḥukm of God and the ḥukm of His Messenger are one and indivisible, proceeding, as they do, from a single divine source.<sup>3</sup>

God created His creatures in accordance with that which was present to His previous knowledge of what He intended by their creation, and what He intended for them.

He /

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1. It will be observed that Prof. Schacht's statement that on the inspired nature of the sunna Shāfi'ī showed himself non-committal is inaccurate. vide, *Origins*, p. 16.
2. vide supra, p.238, n. 1.
3. The *Risālah* reads often like a counter-blast to the slogan: *lā ḥukm illā lillāh*, cf. *Ris.* p.15. Know that Muḥammad's ḥukm is God's ḥukm.

He revealed to His creatures the Kitāb, for an explanation of all things, and a guidance and a mercy.<sup>1</sup> In it He imposed certain obligations, some of which He endorsed, and others of which He abrogated, as a mercy to His creatures, in that in this is an alleviation and an increase added to those blessings He had at the first bestowed upon them. He rewarded them with His paradise, and escape from His torment, in return for their adherence to that which He endorsed. God's mercy embraces His creatures both in that He endorses and in that He abrogates. He has made it clear to men that what He abrogates of the Book, He does so, solely by the Book, and that the Sunna can never be the nāsikh to the Book. The Sunna's function is merely to follow the Book in the like of that<sup>2</sup> on which there is a text and to elucidate the meaning of that which has been revealed in the Book in general terms. God says:<sup>3</sup> "When you recite to them Our pellucid verses, those who do not look forward to meeting Us say: 'Bring a Qur'ān other than this, or change it.' Say: 'It is not for me to change it on my own initiative, I do but follow what is revealed to me. I fear the punishment of a grievous day, should I disobey my Lord.' "

This /

1. Q. XVI, 91.

2. This is the guarantee of sufficient latitude that the ḥadīth scholars require. cf. Q. II, 106, 'aw mithlihā.

3. Q. X, 15.

This shows us that God had imposed upon His prophet submission to what was revealed to him, and that He had not assigned to him the right to alter it on his own initiative. This is the bayān that the only thing that can abrogate kitāb allāh is kitāb allāh. Since only God originated His injunction, only He can remove or endorse that of it which He pleases. This is the prerogative of no one among His creatures. God has said: 'God expunges what He pleases, and records, what He pleases. With Him is the master copy.'<sup>1</sup>

Some scholars have nonetheless, argued that there is, here, an indication that God might assign to His prophet the right of speaking on his own initiative, but under divine guidance, on matters concerning which God has revealed no kitāb. But it has also been suggested that these words mean: 'God expunges the obligatoriness of what He pleases, and records what He pleases.'

God has said: 'mā nansakh min āyatin ʿaw nunsī hā naʿti bi khairin min hā ʿaw mithli hā.'<sup>2</sup> He announces that the abrogation of the Qurʾān, and the deferment of its revelation can be accomplished only by means of a Qurʾān. He has also said: 'When we exchange one āya for another.'<sup>3</sup>

In /

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1. Q. XIII, 39.

2. Q. II, 106.

3. Q. XVI, 101.

In the same way, nothing can abrogate the Sunna of the Messenger of God save a sunna of the Messenger of God.<sup>1</sup> Were God to reveal to His Messenger on some matter, on which he had already established a sunna, a new injunction, at variance with what the Messenger had laid down, he would establish a fresh sunna in keeping with the new revelation, to show men that he had established a sunna which was the nāsikh of the earlier differing sunna. This is also referred to in his sunna.<sup>2</sup>

We have already shown that the Sunna of the Messenger of God is accepted as from God, therefore, whoso adheres to the Sunna, does so by command of kitāb allāh. This being the case, there is no human utterance<sup>3</sup> which is like the Sunna, /

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1. Shāfi'ī's view here is self-contradictory. cf. p.16, Ris. wakullun jā'a min ni'am allāh.
  2. Unhappily Shāfi'ī does not indicate what ḥadīth he has in mind. (Perhaps ibn al Bailamānī? supra p. 94 ).
  3. That the nāsikh should be of human origin is not the point! Having established that the Sunna is perhaps of non-human origin, Shāfi'ī is unable to think of an astringent argument against the view that, since both are of divine origin, the Qur'ān and the Sunna may abrogate each other. He avoids the conclusion that the Qur'ān, of undoubted divine origin, is superior to the Sunna, and hence, capable of abrogating it. The 'i'jāz doctrine plays no part in this theory. He is concentrating, at the same time, on warding off loose assertions of the abrogation of the Sunna of the prophet at the hands of the sunna of the Companions.

Sunna, whence it follows that nothing can abrogate it, but its like, and it has no like, save only another sunna. (of the prophet).

This is a subtle device, in its context, to prevent appeal from the Sunna to the Qur'ān. Shāfi'ī has already stipulated that if God revealed something at variance with the Sunna, a fresh sunna would be established. One could not then claim that the Qur'ān was the nāsikh. The new sunna it is which is the nāsikh. All sunnas handed down are therefore either nāsikh or mansūkh. Some mansūkh sunnas may have vanished, but no nāsikhing sunna can be held to have vanished. The subordinate rôle imposed upon the Qur'ān is now clear: the Sunna explains the Qur'ān (bayān); the nāsikhing sunna always survives, there is therefore never possible any appeal from any sunna back to the Qur'ān. The doctrine was necessarily, in time, bound to impose as its corollary, the view that some nāsikhing qur'āns have failed to survive, since the Shāfi'ite theories broke down under analysis.

It is not possible he argues,<sup>1</sup> that a sunna handed down from the prophet has been abrogated, only that its nāsikh has not been handed down. Shāfi'ī saw very clearly that if this doctrine, which is an implicit demand for the primacy of the Qur'ān source, were allowed to pass unchallenged, the Sunna source /

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1. Ris. p.17.



source would be swept away as redundant. He was thus much less seriously concerned with the argument that nothing can abrogate the Qur'ān, except the Qur'ān, than he was with imposing, as the logical extension of that view, the conclusion that nothing can abrogate the Sunna except the Sunna. His determination to salvage the Sunna, which after all, vindicated so much of the doctrine against the Qur'ān, from this threat of almost certain wholesale destruction at the hands of the Qur'ān party, tells us all we need to know about the actual source of the fiqh doctrines. "In any case,<sup>1</sup> the prophet never says a thing, but by God's voice. Were it permitted to say that the prophet had established a sunna which God subsequently abrogated by a Qur'ān, without there having been handed down from the prophet that sunna, which properly speaking, is the nāsikh, it would be possible to hold concerning, for example, those types of commercial transactions which the prophet has forbidden<sup>2</sup> that perhaps he had forbidden them before God said: 'God declares commercial transactions lawful, but usury unlawful.'<sup>3</sup> Or, concerning those fornicators who are stoned, perhaps Muḥammad stoned them before God revealed Q.XXIV,2; or concerning the practice of wiping boots, perhaps this was the practice before the /

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1. Ris. p.17.

2. sc. which the Sunna has forbidden - i.e. the Muslims have forbidden.

3. Q.II,276.

the revelation of the wuḍū';<sup>1</sup> or one might urge that there is no commuting the cutting penalty in the case of one who stole something not under cover, or something valued at less than a quarter dīnār, since the verse refers to all who steal, whether they steal much or little, and whether or not they break and enter.

Every ḥadīth from the Messenger of God could be rebutted by suggesting that perhaps he never said it, since we note that it does not happen to agree with the Qur'ān. The entire body of the sunna could be rejected by either of the two considerations; thus every sunna could be abandoned where there already existed a general Qur'ānic utterance with which the Sunna did not verbally agree to the letter, (although the Sunna cannot but agree with the Qur'ān in spirit) in those cases where the wording of the Sunna, as handed down, varied to a degree from the wording of the revelation; or, if it were possible to show that the wording handed down from the prophet were fuller than the wording of the revelation.

Both /

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1. Ṭayālīsī, Sunan No.668: Jarīr b. 'Abdallāh al Bajalī reports that the prophet wiped his boots. Ibrāhīm says: "This report pleased them, since Jarīr became a Muslim later than the revelation of Sūrat al Mā'ida." cf. 'Abū Yūsuf: K. al 'Athār, bāb: al mash' alā al Khuffain. Ibrāhīm said: "Jarīr transmits reports on the sunnas operative at the time of the prophet's death."

Both kitāb *allāh* and the Sunna indicate the contrary of this doctrine. The kitāb *allāh* by referring to the function of the Messenger of God vis-à-vis the kitāb, and the religion of God, as also to his adherence to it, and his role in providing it with bayān, on God's behalf."

The two main achievements of Shāfi'ī's argument are: the conclusion that nothing - not even the Qur'ān - can assert priority as a source over the Sunna; and the recognition of the Qur'ān's insistence upon unquestioning obedience to the prophet, which it imposes upon all Muḥammad's followers. This imposition he earlier referred to as one of the chief functions of the Qur'ān in Muḥammad's lifetime, to enable him to govern, generally, on the basis of personal, rather than of revealed decisions. Shāfi'ī is undoubtedly correct in that instinct which leads him to identifying, as a primary source, Muḥammad's sunna, during Muḥammad's lifetime. As a traditionist, however, he extends this identification to all the materials<sup>1</sup> which, during the two centuries since Muḥammad's death had come to be known as 'the Sunna of the prophet', and shows an inclination predominantly in favour of regarding the 'Sunna of the prophet' as divinely inspired. It is in the light of these methodological attitudes that he returns again and again to this question of the Islamic penalty /

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1.i.e. all of such that he is prepared to acknowledge.

penalty for fornication, and, confronting the conflict between the Qur'ānic statements and those in the Sunna, conflict, which however, he tirelessly repeats, is only apparent, he demonstrates the application of that special sort of bayān which he calls takhṣīṣ:

"God has said:<sup>1</sup> "And those of your women who commit abomination." The penalty of the fornicators was originally 'ḥabs and 'adhā,<sup>2</sup> until God revealed the penalty of Q.XXIV,2, i.e. flogging. Concerning slave-girls, he revealed (Q.IV,25) that their penalty should be half that for the muḥṣanāt.

God had thus abrogated the 'ḥabs and the 'adhā' and imposed upon the fornicators the penalties.

Q.XXIV,2 could refer to all free fornicators, or only to some as opposed to others. We therefore seek in the Sunna sure indication as to who was intended. We find in the ḥadīth the words: "Now God has appointed the procedure in their case." The words themselves indicate that this was the first penalty appointed for fornicators, since in Q.IV,16 God said: "or until God appoint a procedure"<sup>3</sup> God's words /

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1. Ris. p.35.

2. i.e. Q.IV,15-16.

3. This, as an instance of 'insā' - i.e. ta'khīr al 'inzāl - strictly speaking, ought to have been by means of a qur'ān, not a ḥadīth - vide, Ris. p.17.

words concerning slave girls, whose penalty should be half that for muḥṣanāt, distinguish the penalty for the free persons from that for the unfree. Slave girls are therefore excluded from the full provisions of Q.XXIV,2. The half penalty for slave girls can refer only to flogging, in connection with which a specific number was stipulated. It cannot refer to stoning, which involves death, and which has no prescribed limit other than death. The Messenger of God stoned Mā'iz without flogging him, and the wife of the 'Aslamī, without flogging her. These were both muḥṣan persons. The Sunna thus indicates that the flogging mentioned both in Q.XXIV and in the 'Ubāda ḥadīth is abrogated from the non-virgin fornicator."

Stoning, (a sunna), in this construction, did not abrogate flogging, (a qur'ān), but the prophet's reported practice, (sunna), indicates that from the dual penalty appointed for thayyibs,<sup>1</sup> it was the flogging that was eventually dropped.<sup>1</sup> (matrūk).

There are some serious difficulties in this exposition. Shāfi'ī seems to begin by arguing that the 'ḥabs and 'adhā' remained the penalty until abrogated by Q.XXIV,2. This is in a sense essential, given Shāfi'ī's methods, if he is to include the slave girls, whose punishment is said, by the Qur'ān, /

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1. In the sunna.

Qur'ān, to be half that appointed for the muḥṣanāt, the class which the slave girls, according to the Qur'ān have to enter before any penalty applies to them.<sup>1</sup> But he seems to be arguing simultaneously that the first penalty to be prescribed following the revelation of Q.IV's 'ḥabs and 'adhā' was that embodied in the 'Ubāda ḥadīth. This dating he derives from the words: "now God has appointed a procedure". Historically, Shāfi'ī, therefore, reads the sequence: Q.IV, 15-16; 'Ubāda; Q.XXIV; Q.IV, 25; Mā'iz; 'asīf.

The 'Ubāda ḥadīth has two uses: it distinguishes for the first time, two general categories of fornicators, and, as promised in Q.IV, 15, it appoints the penalty for each category: for virgins: one hundred strokes and banishment for a year: for non-virgins: one hundred strokes and death by stoning. It thus apparently anticipates that part of the penalty revealed in Q.XXIV, and, apart from the categorisation of fornicators into virgin, and non-virgin, on which the Qur'ān is silent, the ḥadīth imposed, in addition to the Qur'ānic flogging, a second penalty for each of the two categories of offenders, of which again, the Qur'ān makes no mention. Well might some of the Muslims protest that they do not find two penalties in the Book of God! Since the Qur'ān cannot abrogate the Sunna, Q.XXIV may not be thought /

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1. Otherwise their penalty must be 50 lashes and six months' banishment, i.e. half of the 'Ubāda penalty for the non-muḥṣan!

thought, by concentrating only upon flogging, to have abrogated either the stoning, or the banishment. The suggestion was made,<sup>1</sup> that perhaps the Islamic penalty for fornication had been imposed in the Qur'ān, at an early date, but had been subsequently modified<sup>2</sup> by the revelation of Q.IV, 15-16. Shāfi'ī's reply to this is that 'Ubāda mentioned his ḥadīth as a retrospective comment upon Q.IV after it had been abrogated. Arguing that 'Ubāda is later than Q.IV, Shāfi'ī assumes that Q.XXIV is later than 'Ubāda, stressing that the one hundred strokes are endorsed in the case of the free virgin. On the basis of the ḥadīth stories concerning Mā'iz and the 'Aslamī's wife, he further concludes that stoning is endorsed, in the case of the free non-virgin and that the flogging imposed upon this class by both 'Ubāda and Q.XXIV was now abrogated (withdrawn). This is thus an insistence upon the historicity of a sunna which, simultaneously, provided evidence of the abrogation of a previous sunna, and the bayān of a previous Qur'ān.

The ḥadīth related by Mālik<sup>3</sup> about the 'asīf establishes that the dual penalty of flogging and the banishment, for non-muḥṣans, in the case of the man's son is historically attested to be the Sunna. From the same story, and from  
ibn /

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1. Umm, VII, p.76.

2. Khaffafa.

3. Ris. p.36.

ibn 'Umar's tale about the two Jews, stoning alone for muḥṣans is likewise historically attested to be the Sunna. If the free thayyib was originally intended to be included in the Qur'ānic reference to fornicators at Q.XXIV,2, it follows from the Sunna that flogging has in his case been mansūkh, (withdrawn). Shāfi'ī flatly states that the stoning of the thayyib occurred on the basis of what the prophet related on God's behalf, after the revelation of Q.XXIV,2. (Ris. p.36).

We must now draw attention to certain equivocal elements in the Shāfi'ite vocabulary: the 'Ubāda ḥadīth is: 'awwal mā nuzzila<sup>1</sup> and by it the 'ḥabs and the 'adhā' were nasakhed.<sup>2</sup> (replaced).

The one hundred strokes were 'nasakhed' (withdrawn), in the case of the free non-virgin.<sup>2</sup> But we have seen that, according to Shāfi'ī's reasoning, the Sunna cannot 'naskh' the Qur'ān, for only the Qur'ān can do this; yet, both the 'ḥabs' and the strokes are Qur'ānic.

What then, is the implication of their 'naskh'? To this query there may be one of two replies, depending upon whether one is a follower of Shāfi'ī, or, if not, at least prepared to follow his general chronology. In this latter case, /

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1. Umm, VI, p.119.

2. Ris. p.21.



case, one merely continues to repeat the old pre-Shāfi'ī principle that the Sunna can and does naskh the Qur'ān, producing this very instance as one's 'proof': 'Alī said: "I flogged her, on the basis of the Book of God, and I stoned her on the basis of the Sunna."<sup>1</sup>

But, for those - and these are the majority - who found Shāfi'ī's technical reasoning forceful and unassailable, there was only one route forward from the dilemma into which Shāfi'ī had forced himself and the community of the scholars, an outcome predictable from the equivocal nature of his language. Takhṣīṣ, as we have said, is a form of bayān which operates by indicating the exclusion of categories not originally intended by the divine Law-giver to be included in the apparently general terms of His injunctions. This function of the Sunna had been employed by Shāfi'ī to indicate the exclusion of certain classes of parents, offspring or spouses from the provision of the verses on inheritances; to exclude certain classes of persons from the obligation to wash the feet before the performance of the ritual prayers; to exclude certain classes of thief from the application of the Qur'ānic penalty, and now, to exclude certain categories of fornicators from the Qur'ānic flogging penalty. But, what is unique in the matter of the Islāmic penalties for fornication, is that over and beyond /

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1. Umm, VII, p.167.

beyond the exclusions he has argued, there are still additions to the Qur'ānic penalties - the penalties of stoning and of banishment, neither of which is mentioned in the Book. Can the Sunna usurp the functions of the Qur'ān in initiating penalties, even a capital penalty, when it has already been established that the Sunna cannot abrogate the Qur'ān but is held rather, to serve the Qur'ān by elucidating its intentions? It is extremely interesting to note that whereas Shāfi'ī draws heavily upon Mālik for his ḥadīth materials in this question of penalties for fornication, as in so many other of his studies, the one element he has not borrowed, or at least, has not seen fit to reiterate on this occasion,<sup>1</sup> is the concept referred back to 'Umar b. al Khaṭṭāb that the 'stoning-verse' had once been a part of the Qur'ān revelation. Equally interesting is that on Mālik's part, there is no reference to the 'Ubāda ḥadīth on which Shāfi'ī leans so heavily. Mālik, although he does not use it, may conceivably have known the ḥadīth, since he glosses the words 'al sheikh wa al sheikha' as 'al thayyib wa al thayyiba.'<sup>2</sup>

The logical outcome of Shāfi'ī's unflagging repetition of the divine command to render implicit obedience to the orders /

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1. But vide Ikh, p.251.

2. Muw. K. al Ḥudūd.

orders of the prophet, is to constitute the Sunna an independent authority to legislate for the Muslims. Shāfi'ī is unable to make this claim in its extreme form. This suggests that his entire defence of the Sunna, which he based upon selected texts of the Qur'ān, had been necessitated, and largely conditioned, by a historical situation in which the Sunna had been rejected as a source, and denied any voice,<sup>1</sup> and in which the Qur'ān alone, or, possibly in association with other factors, other than the ḥadīth, was regarded as having the authority to act as source. Reacting in the defence of the Sunna, Shāfi'ī took over his opponents' weapons, and bound up the Sunna with the Qur'ān to ensure for it survival, and a secure anchoring place. Shāfi'ī's ingenuity lies in his adoption of this takhṣīṣ technique, in an attempt to rehabilitate the impugned Sunna. But the method employed could not be extended to include the penalty of stoning, in the face of the insistence of some that stoning is nowhere alluded to in the Qur'ān, and in the face of his own insistence that the Sunna cannot abrogate the Qur'ān. Nor indeed, could the method be extended to cover any detail of the practice not having its basis in the Qur'ān texts. It is on these questions, as Prof. Schacht has observed,<sup>2</sup> that Shāfi'ī's system breaks down. From the fact of his breakdown, /

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1. vide K. Jāmi' al 'ilm. cf. Umm, VI, pp.115-116.

2. Origins, p. 15.

breakdown, we can gauge the strength of the pro-Qur'ān argument in Shāfi'ī's day, since his breakdown was occasioned by his attempt and failure to meet that case. He had failed to solve the problem of the source of the stoning penalty, but he had incidentally, by his skilful use of the Qur'ān texts, secured the position of the Sunna, generally, as a referent.

It comes, therefore, as no surprise to find that attempts more explicit than those of Shāfi'ī himself, have been made to give the 'Ubāda ḥadīth the appearance of having itself been a revelation: 'Ubāda said:<sup>1</sup> "Whenever revelation came upon him,<sup>2</sup> the prophet became distressed, and his face coloured. One day, revelation came upon him, and he reacted in that way, and when he recovered, he said: 'Take it from me, take it from me, God has now appointed a way for them.' "<sup>3</sup>

This cannot, perhaps, be taken as evidence that the attempt here, or in Shāfi'ī's argumentation, was to treat the 'Ubāda utterance as definitely Qur'ānic, despite the vocabulary employed. Shāfi'ī has said: 'The Messenger of God never imposed any ruling, except by the operation of waḥy; there /

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1. Muslim: bāb: ḥadd al zinā. cf. Ṭab.ṭaf.VIII, pp.76 ff. - 'idhā nuzzil 'alaihi al waḥy, in some versions.

2. 'unzila 'alaihi.

3. cf. F.B. v.XII, p.147: "Ṭabarānī 'an 'Ubāda: When the stoning verse was revealed, the prophet said, 'Now God has appointed a procedure.' "

there are two kinds of wahy - the recited, (al matlū) and the non-recited on the basis of which he laid down his sunna.<sup>1</sup>

It was Shāfi'ī's technical arguments, rather than merely his vocabulary and specifically his repeated insistence that the Sunna cannot and does not abrogate the Qur'ān which made it easier, later, to hold that if stoning abrogated (replaced) flogging, then stoning must have been at one time a qur'ān. That stoning abrogated (replaced) flogging Shāfi'ī himself never actually stated.<sup>2</sup>

None denies that this ḥukm of stoning remains valid, and yet it is a ḥukm which is nowhere represented by an āya in our Qur'ān texts. It can only therefore be an instance of the historical operation of the third mode of abrogation - the naskh (removal/withdrawal) of the tilāwa, with the survival in the practice of the ḥukm. The idea that the 'stoning-verse' had once stood in the Qur'ān texts, and had subsequently been either withdrawn, or withheld, in the sense that, although it had been an integral and unrepudiated element in the oral Qur'ān texts, in the dawn of the history of the Book, it had not been accepted for inclusion into the written texts /

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1. Umm, VII, p.271.

2. As an ṣuṣūlī his concern was with indications. vide supra p.247. Besides, for Shāfi'ī "abrogation" theoretically does not mean "to replace" but "to suppress". vide supra, p.248. We have, however, in passing, shown how loose his use of the word actually is.

texts when the Qur'ān was edited and promulgated, but that, despite the disappearance of its wording from the texts, its ruling was widely regarded as continuing valid, is an idea, which as we saw, did not originate with Shāfi'ī. He was familiar with it, as Mālik had been, and it must have been in circulation at least a generation before Mālik. The idea had apparently little appeal for Shāfi'ī, otherwise one might have expected him to make more use of it in his voluminous writings. Certainly, his intervention in the discussion of the fornication penalties did nothing to discourage the idea, and the uncharacteristically vague and equivocal language he used, seems to have given the idea itself a new lease of life and to keep it positively in active circulation. What may finally have crystallised the idea in the minds of his successors, was his discussion of the problem from quite another angle - under the familiar heading of jurisdiction.<sup>1</sup> Some, as we have seen, had confronted the question: Did the prophet ever stone? The answer was that he had indeed stoned certain Jews. This may, or it may not, have historically happened but this is not our concern. Some believed that the prophet had once stoned certain Jews and, quite naturally asked on the basis of what Law he had done so. One perfectly sensible reply was that he had stoned them on the basis of Jewish Law, since we have evidence that he had first asked the Jewish doctors what provision their Law made in such cases, and, finally, in order to be in no doubt, he had called for a copy of /

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1. cf. Umm, VI, p.124 ff.

of the Torah. Satisfied that this laid down the stoning penalty, Muḥammad had not hesitated to apply the Law. An interesting question now arises as to how far the prophet's historically attested conduct towards non-Muslims constitutes Sunna for the purposes of the derivation (sc. documentation) of the penalty for Muslims in similar cases. That Muḥammad's attested conduct towards Muslims constitutes Sunna in that sense, none would, in the end question. But that his conduct towards non-Muslims should be held to be binding upon later generations of Muslims, was a concept not so readily acquiesced in. We can guess that this was a view which encountered stiff resistance, to dispel which is undoubtedly the motive behind the duplication of ḥadīths to attest the prophet's implementation, within Islam, of this gruesome penalty. Thus, parallel to the exegesis of the words in Q.IV.15: min nisā'ikum, as 'married women' - since 'your women' can have no other force than 'your wives', - runs another more significant tafsīr, which argues that the words mean the 'women of the Muslims'.<sup>1</sup> That this is the later interpretation is indicated by the consideration that it presupposes and supplements the other. We have also seen that parallel to the series of the ḥadīths which documented Muḥammad's stoning of Jews, runs another series that attest his stoning of Muslim culprits. It is in this latter case alone, that it was found /

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1. Vide supra, p.209 for the meaning of minhum. °Abu Bakr b. al °Arabī, op.cit. I, p.355.

found necessary to adduce supplementary evidence from the practice of his successors, °Abū Bakr, °Umar, °Uthmān and °Alī. Stoning, as a Muslim penalty, was rejected by some scholars, later identified as among the Khawārij and certain elements of the Mu'tazila movement, on the grounds that 'we do not find two penalties in the Book of God'.<sup>1</sup> Of the two schools, we are further informed that they were sceptical in the extreme on the claims of the ḥadīth. The former rejected them for systematic reasons, since they insisted on the principle of *la ḥukma °illā lillāh*; the latter, for formal reasons, since they doubted the efficacy of the isnād safeguards against falsification, and since so much of the ḥadīth was contrary, not only to reason, but also to the express statements of the Qur'ān.<sup>2</sup> But a means was at hand to neutralise the objections of both parties and was soon employed by the Sunnīs. This was quite simply to insist that there are in fact, or were at one time, two penalties in the Book of God - the flogging and the stoning. It is a matter of extreme intellectual puzzlement that Shāfi'ī did not adopt this view more whole heartedly, for, in association with his mechanism of *takhṣīṣ*, the sunnas on Mā'iz b. Mālik, and the wife of the °Aslamī might have been more satisfactorily exploited to provide evidence of the exclusion of the *thayyib* category of fornicators from the provisions of Q.XXIV. The /

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1. F.B. K. al Muḥarabīn, intro.

2. ibn Qutaiba, Ta'wīl, passim.



The reason for his preferring to rely upon the 'Ubāda ḥadīth was presumably not that he had reservations about the claims of the 'stoning verse', for he has admitted the ḥadīth on this verse into his canon, but that he had further to take account of two elements not mentioned in either the Qur'ān as we know it, nor in the 'stoning verse'. These were the non-Qur'ānic distinction between the virgin and the non-virgin, and, in the case of the former, the additional penalty of banishment for a twelve-month, the origin of which is somewhat obscure.<sup>1</sup> His choice of procedure was further justified by his objective - to establish, from the Sunna, not abrogation, but bayān. His choice of locus probans, is, in the event, doubly unfortunate, since the 'Ubāda ḥadīth provided him with embarrassing problems of isnād,<sup>2</sup> and is, in addition, even at a superficial examination, recognisable as a palpable forgery. The phrase: 'Now God has appointed a process': is no more than an echo of Q.IV,15, and its interpolation was dictated by the need to establish that the verse on which it was parasitic had been superceded, by something other than Q.XXIV. Further, Q.IV,15 is not universally regarded as a divine statement about a promised future penalty for fornicators, but was seen rather, as a statement concerned exclusively with women.<sup>3</sup> That it concerns fornication, is but an assertion dependent /

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1. Vide ibn al 'Arabī, op.cit. I, p.359.(cf.infra p.265,n.1.)

2. Vide Umm, VII, p.76.

3. The same applies to 'Ubāda itself!

dependent upon a particular interpretation of the term 'fāḥisha', which, in the Qur'ān, has a variety of applications.<sup>1</sup> 'Ubāda's ḥadīth is thus dependent, not merely upon consideration of the wording of a Qur'ān, but is patently secondary to a sectional tafsīr.<sup>2</sup> In exactly the same way, the key words: 'take it from me': betray their origin in a blatantly partisan tafsīr proposed by the ḥadīth party for Q.LIX,7: "Whatsoever God grants as spoil from the people of the settlements to His Messenger, is to be enjoyed by the Messenger, the near of kin, the orphaned, the destitute, and the warrior, so that it will not become a thing of contention among the wealthy members of the 'umma. Whatsoever the Messenger gives you, take it; what he denies you, desist from demanding."

This verse indisputably concerns the division among the fighters of the spoils of a defeated enemy. Nonetheless, one finds this āya, regardless of context, basic to Shāfi'ī's ceaseless campaign to fasten upon the Muslims, and others, his school's notion of the divine imposition of the religious obligation of implicit obedience to the prophet, in the technical Shāfi'ite sense of unquestioning acceptance of the Sunna of the prophet'. "God has imposed upon us the religious obligation of subordinating ourselves to the commands /

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1. Baiḍawī, ad.loc.

2. Note that 'Ubāda, with the term lahunna is still a statement exclusively concerned with females!

mands of the prophet, saying: 'Whatsoever the prophet gives you, take it, and what he denies, desist from [demanding]!"<sup>1</sup>

A most profitable field for future research is offered in the task of replacing, in their original contexts, the countless scraps of phrases, and even whole verses, encountered throughout the Islamic polemics as props to this or that academic theory. (cf. the misuse of Q V 71, above, p. 237.)

There is no shortage of irony in the literature. This āya which Shāfi'ī is fond of employing to establish the legislative faculty of the Sunna alongside the Qur'ān, is also a favourite quotation of those who argue that the Sunna can and does abrogate the Qur'ān. "Those who hold that the Sunna abrogates the Qur'ān, employ as evidence, the verses: 'he does not speak from fancy',<sup>2</sup> and 'Whatsoever the prophet gives you, take it; and what he denies you, desist from.' This last āya is general, and contains no element of khāṣṣ.<sup>3</sup> We are obliged, therefore, to accept the prophet's words. Those who reject the abrogation of the Qur'ān by the Sunna, interpret the verse: 'Whatsoever the prophet brings you (from that which has been revealed to him of the Book of God) take it; he does not speak from fancy - that Qur'ān which he brings you, comes from God, and has not been got up by Muḥammad from his own imaginings.<sup>4</sup> This party further argue that /

1. Umm, VII, p.251.

2. Q. LIII, 3.

3. sic.

that as the Sunna is the mubayyina of the Qur'ān, it is not its nāsikh."<sup>1</sup>

The artificiality of the 'Ubāda ḥadīth is further evident from its form, calculatingly designed to serve as a bridge between Q.IV,15 and Q.XXIV,2, on one hand, while, on the other, it unites the practice, (or at least the theory of the Muslims) - the banishment and the stoning of the extra-Qur'ānic tradition - with the flogging provision of the Qur'ān. The ḥadīth was invented ad hoc in circles sympathetic to the ideas championed by scholars who held that the Sunna should unhesitatingly and unquestioningly be taken up to serve as the documentation of the contemporary view, with the aim of providing for it an Islamic origin, but, who yet, apparently had to take the contents of the Qur'ān into account. There is some awkwardness arising from its bridge form, since it might be argued that it could have been abrogated in its turn by the subsequent revelation of Q.XXIV. Shāfi'ī showed that the function of the expression: 'Now God has appointed a process:' was to establish that this was the first revelation to Muḥammad following the revelation of Q.IV.<sup>2</sup> Sarakhsī<sup>3</sup> showed that it preceded Q.XXIV, since in the ḥadīth, Muḥammad said: 'Take it from me'; whereas, had it been later than Q.XXIV, he would have had instead to say: 'take /

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1. Mekkī: op.cit. bāb: mā yajūz 'an yakūn nāsikhān.

2. Umm, VII, p.76.

3. Mabṣūt, vol.IX, p.36.

'take it from God'. Shāfi'ī, in his argument that the prophet's practice, as documented in the stories about Mā'iz and the wife of the 'Aslamī, who were both thayyibs, and whom he stoned, but did not flog, indicated alleviation (takhfīf) places these stories in the period following the revelation of Q.XXIV.<sup>1</sup> The function of the ḥadīth of the 'asīf, was to restore the doctrinal situation, created originally by the 'Ubāda ḥadīth, but, now seen by the scholars to be threatened by their having, initially, placed 'Ubāda too early in their timetable. The 'asīf ḥadīth marks a further improvement upon 'Ubāda, in the sense, that whereas the latter is merely sunna qawliyya - (it does not provide evidence that the prophet actually historically applied the dual penalties of stoning and flogging, or flogging and banishment, but merely states that these are the penalties) - the 'asīf story is sunna fi'liyya, and provides the evidence that Muḥammad historically inflicted the double penalty on the man's son, and sentenced the 'Aslamī's wife to be stoned, but not flogged. This represents takhfīf, and takhfīf is abrogation; this story must therefore be later than the revelation of Q.XXIV.<sup>2</sup> The later naskhs the earlier situation. The 'asīf story, simultaneously, verifies 'Ubāda and supplies the /

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1. Ris. p.36.

2. ibn al 'Arabī, op.cit. vol.I, p.359. tarak al jild fi'lan fī kulli man rajam wa qawlan fī ḥadīth al 'asīf. The sunna qawliyya is stronger than the fi'liyya, since less liable to misinterpretation.

the necessary documentary evidence for Shāfi'ī's doctrine that where stoning is inflicted, flogging is suspended. In the 'asīf story, flogging was applied to one offender, but not to the other. The penalty of Q.XXIV was thus in certain conditions endorsed, in other conditions, repealed...i.e. 'asīf is the later. No evidence has ever been adduced that at any time in his career, Muḥammad actually applied both the flogging and the stoning penalties to a single offender. But this omission is unimportant since only a minority of scholars held the doctrine that the dual penalty remained validly applicable, and it is clearly the doctrine that stimulates the production of ḥadīths.

That the 'asīf story represents the re-instatement of the abandoned 'Ubāda ḥadīth is shown by Shāfi'ī's comment that the man's son was a virgin,<sup>1</sup> and the other's wife a thayyiba. Her stoning, and that of Mā'iz occurred later than Q.XXIV, and on the basis of 'that which the prophet related on God's behalf'. From this, the stoning penalty was based, by implication, upon a divine communication to the prophet, and at the close of the second century, when the primary concern was still apparently to justify the Sunna against those who were prepared to accept no ḥadīths, or /

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1. Vide Ikh, p.251, and supra p. 230n.2 . The 'asīf ḥadīth extended the effect of the 'Ubāda ḥadīth by applying it to males. vide supra, p. 261,n.2.

or only tafsīr-ḥadīths, i.e. (against the Qur'ān) one need not labour the point as to whether this meant that it was a qur'ānic or a non-qur'ānic imposition. The important thing was that it was an Islamic imposition.<sup>1</sup> The criteria which had to be satisfied to achieve this result were a qur'ānic or a sunna origin, depending upon the assumptions of the opposition group being addressed. The first criterion was in view in the Mālik ḥadīth from 'Umar that stoning had been revealed and had once been a verse in the Qur'ān texts; the second, in the 'Ubāda-'asīf stories.

For Shāfi'ī the Sunna is certainly the primary source, and it could be further argued, from the consideration that in any conflict between the Qur'ān and the Sunna, it was invariably the Qur'ān that had to be adjusted to the Sunna, and never the reverse,<sup>2</sup> that it was also the historically prior source of the Shāfi'ī doctrines. That the Qur'ān had to be seen to be capable of such adjustment to fit the doctrine, suggests that the Qur'ān, as a source, could now no longer be ignored. We must therefore presume that in his entire defence of the Sunna, based on carefully selected texts of the Qur'ān, Shāfi'ī was responding to a contemporary demand, in /

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1. The Torah has been mentioned nowhere throughout this exposition by Shāfi'ī.

2. Except on the one question of prayer during battle, Ris. p. 26-7.

in which the emphasis had shifted from the Sunna<sup>1</sup> in the direction of the primacy of the Qur'ān source which must now always be seen to underlie the details of the doctrine. The consciousness of the expediency of suggesting that the stoning penalty had originated in the Book, and was not merely a non-Book sunna, is evident, not only in the Mālik-ʿUmar ḥadīth, but even also in the story of the ʿasīf, in which the prophet was made to say: 'I shall judge between you on the basis of the Book of God.'

We have already referred to ibn Ḥajar's comment on this and we have taken note of the discussions preserved by Ṭabarī.

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1. or from the Torah.



The problem of jurisdiction :

The problem of jurisdiction is discussed by Shāfi'ī for one purpose only - to settle a source problem. The difficult term 'qist', occurring in Q V 42, he glosses as ḥukm allāh which He revealed to His prophet, who was pure and truthful, in His latest communication to His creatures.<sup>1</sup> At Q V 49, he glosses the hopelessly ambiguous expression : ' and judge between them on the basis of what God has revealed', as a divine command to judge between them on the basis of what God had revealed to Muḥammad.

It had been reported that Muḥammad had stoned Jews; some have argued that Q V 49 had abrogated Q V 42, with the view to asserting that his stoning the Jews had been on the basis of the Torah. But, if Q V 42 were not abrogated, then the prophet had preserved the right to judge, and must have judged bil qist - i.e. on the basis of the Muslim Law.<sup>2</sup>

Muḥammad had imposed stoning on non-Muslims, this being the Sunna he had imposed on the Muslims, and concerning which he had declared : 'I shall judge between you on the basis of the book of God.' It was by now apparently quite intolerable /

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1. Umm VI p. 124.

2. cf. Umm IV p. 130: by qist is meant that decree revealed to His prophet. The function of the word 'latest' would appear to be polemic. cf. Ṭab., taf., X p. 334 : judging on the basis of what God appointed as the Law for the Muslims. Both Shāfi'ī and Ṭabarī approve of interpolations which prove that v 42 was not abrogated. *ibid.* p. 333.

intolerable that the stoning penalty should be held to be a derivative of the Jewish Law. Hence the various ḥadīths on Muḥammad's stoning of Muslims.

The islamisation of the doctrine implies not merely its positive attribution to either the Qur'ān or the Sunna, but, in addition, its dissociation from any possible non-Islamic source. Shāfi'ī knows of no scholar who would dispute that the Jews Muḥammad was reported to have stoned were not dhimmīs.<sup>1</sup> We have indeed heard of not one of the four caliphs that in a single instance he had judged a case involving dhimmīs, and had they done so, we had surely heard of at least some cases. Nor do we know of any scholar who reports Muḥammad as having judged them. He stoned persons in treaty-relation with Islam who had come to him, seeking his decision.<sup>2</sup> Of the alternatives to hear, or to ignore, had the former been the preferable course, it would have been adopted by his successors. Should however the Muslim judge choose to hear dhimmīs, he should advise them, in advance, that he would propose to apply to them what he would apply to the Muslims. He ought further, on Qur'ānic grounds, to insist on Muslim witnesses.<sup>3</sup>

There is no disguising the fact that Shāfi'ī thought and wrote under the influence of a strongly anti-Jewish atmosphere /

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1. Umm IV p. 129; cf. F.B. XII p. 129 for Mālik's view to the same effect.

2. cf. Tab., ṭaf., X p. 315.

3. Umm, loc. cit., p. 127.

atmosphere. It is not, however, necessary on that account, to read his barbs as aimed directly at the Jews themselves.

We have already become familiar with two explanations of Muḥammad's reported condemnation of sexual offenders. Where these were specifically identified as Jews, he was thought to have rendered his judgment in accordance with the Torah. Where the impression was conveyed that the offenders were Muslim, Muḥammad was reported as having judged them on the basis of kitāb ʾallāh.

For Shāfiʿī, to whom kitāb ʾallāh always means the Qurʾān, the awareness that the stoning penalty is mentioned in the Torah is utterly irrelevant. Muḥammad's stoning of the Jews and his stoning of the Muslims had been in accordance with what God had revealed to him. To achieve this conclusion, Shāfiʿī had had to make two unsubstantiated assumptions : that the condemned Jews had been non-dhimmīs; and that the stoning of the Jews must have been later than the stoning of Muslims, whereas both Ṭabarī<sup>1</sup> and ibn Hishām<sup>2</sup> for example, refer the Jewish-Muḥammedan discussions on the question of fornication to Muḥammad's first arrival at Medīna. The story is among those reported by ibn ʿIshāq from al Zuhri<sup>3</sup> which suggests that it is part of the earliest view on this question. Shāfiʿī's /

1. Taf., X p. 303.

2. Sīra, II, p. 156.

3. vide supra, p. 222: Zuhri connected stoning with the revelation of Q V 42.

Shāfi'ī's inconsistency lies in his not having emphasised that the stoning penalty must be presumed in that case, to have been a qur'ān.

Others have made the attempt to wrestle with the part alleged to have been played in the history of this penalty by the Torah texts, and some even held that those very words which are quoted by countless Muslim scholars as having been the wording of the alleged Qur'ānic 'stoning verse' were the very words of the alleged 'stoning verse' to be found in the Torah. But other variant versions of the Torah verse are proposed, and the 'Abū Huraira version, instead of 'al sheikh wa al sheikha' reads : 'al muḥṣan wa al muḥṣana',<sup>1</sup> and contains in addition, an allusion to the term 'tarabbuṣ'. Jābir's version reads:<sup>2</sup> 'If four men bear witness<sup>3</sup> that they have seen his penis in her vagina after the manner of the kohl pencil in the kohl bottle.'<sup>4</sup> Both versions are patently secondary to other discussions within the schools.

"The ḥadīth on the two Jews contains several indications:<sup>5</sup> it /

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1. F.B. XII p. 142; cf. Tab., Taf., X p. 304.

2. ibn al 'Arabī, op. cit., I, p. 356.

3. cf. Q IV 15.

4. mithla al mail fil makḥala; dukhūl al mirwad fil makḥala. cf. Muz. V p. 167 : kamā yaghīb al mirwad fil makḥala wa al rishā' fil bi'r; cf. ibn al 'Arabī, op. cit. I p. 357.

5. F.B. XII p. 142; cf. Nawawī, Sharḥ, p. 147.

it is an obligation to proceed against the dhimmī kāfir when he fornicates. This is the general view, although the Shāfi'iyyah are divided. Neither ʿAḥmed, nor the Shāfi'iyyah insist upon Islām as a condition of the ʿiḥṣān status.<sup>1</sup> This view gains confirmation from the explicit statement in some versions of the ḥadīth that the two Jews were both muḥṣan.<sup>2</sup> The Mālikīyyah and the main body of the Ḥanifiyyah who insist on Islām as an indispensable constituent of ʿiḥṣān, reply to the ḥadīth about the stoning of the Jews that they were stoned in accordance with the Law of the Torah<sup>3</sup> and not in accordance with the Law of Islam. The question of their ʿiḥṣān therefore does not arise, since stoning, in the Torah, applies to the muḥṣan and the non-muḥṣan alike.<sup>4</sup> They maintain that these events occurred soon after the prophet's first arrival at Medīna, when he was commanded to adhere to the Law of the Torah, until its individual enactments should be abrogated in the Islamic revelation. Muḥammad thus stoned these Jews, in accordance with the Law of the Torah, which was subsequently abrogated by the reference in Q.IV,15 to 'your women'. That verse in its turn, was later abrogated by the Islamic distinction between the muḥṣan and the non-muḥṣan.

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1. vide Muzanī, Mukht, IV, p.15.

2. Ṭab.ṭaf. X, p.303.

3. Sarakhsī, Mabsūṭ, IX, p.39.

4. Ṭab.ṭaf. X, p.304.

al Khaṭṭābī, refuting the Ḥanafī argument that the prophet had stoned the Jews on the basis of the Torah, pointed out that God says in the Qur'ān: "Judge between them on the basis of what God has revealed." The Jews, according to the ḥadīth, came to Muḥammad enquiring what the penalty was in his view. He then disclosed what they had been concealing, by proclaiming the penalty of the Torah.<sup>1</sup> The Islamic penalty, in Muḥammad's view, could not have been different, since one may not decide on the basis of a ruling that has been abrogated. The indication is therefore, that Muḥammad gave his decision on the basis, not of the mansūkh, but of the nāsikh.

As for the 'Abū Huraira ḥadīth, there is, in the isnād, a person not identified. But, supposing the ḥadīth to be attested, and that Muḥammad had said: 'I shall judge on the basis of what is in the Torah,'<sup>2</sup> that would mean that the prophet had aimed at publicly exposing the Jews by disclosing a Torah penalty that they had concealed and which coincided with an Islamic penalty. In Islam, stoning abrogated flogging. No scholar has held that stoning was first instituted and then flogging, and then stoning again. Stoning has remained the Islamic penalty ever since its institution. The prophet did not stone the two Jews solely on the basis of the /

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1. Tab.ṭaf.X, p.306.

2. ibid.

the Torah, but, rather on the basis of the Islamic Law, with which the Torah Law happens to coincide."

This however, would interfere with the dating of Q.IV, 15-16. If the stoning of the Jews occurred at Muḥammad's first arrival at Medīna, it would have occurred before the imposition of the Islamic penalties. If after the settlement of the Islamic penalties, how many Jews would have remained at Medīna by that time?<sup>1</sup> Flogging, (Q.XXIV,2) is said to have been revealed in connection with the ʿĀ'isha scandal, i.e. circa year 6 A.H. If stoning is not imposed in the Christian canon Law on marriage, then was the stoning of the Torah thought by the Muslims to have been abrogated by the Christian Law? The question was never raised.

Some have argued that the laws of the dispensations preceding Islam remained laws also for the Muslims, so long as this is attested to have been the case by the indication of a Qurʾān or a sound ḥadīth, and so long as the abrogation of the individual law had not been attested by the legislation of our prophet, or of another prophet before Muḥammad. (F.B.XII, p.145). On this basis the events described in the ḥadīth might tend to indicate that Muḥammad was aware that stoning had not been abrogated in the Torah.

The legacy that Shāfiʿī had left behind is thus: for those /

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1. vide G. Vajda, loc.cit. [ J.A. 229 (1937) pp. 58 ff. ]

those who accepted his reiterated technical reasoning that the Sunna cannot abrogate the Qur'ān, only the Qur'ān can do this; that the house-arrest and the verbal violence and the flogging are all Qur'ānic; that Muḥammad ever acted solely in accordance with what was revealed to him; that in certain cases of fornication, whether the offenders were Muslim or Jewish, Muḥammad had stoned; that the Qur'ānic flogging penalty had been abrogated from certain classes of offenders; that in all such cases the penalty was stoning alone; that no Muslim might decide in accordance with Jewish Law - the conclusion was inescapable that the stoning penalty must be based on the Qur'ān. But stoning for adultery is not mentioned in the Qur'ān. Therefore the ḥukm had remained valid, but the wording must have been withdrawn from the texts.

The irony of Shāfi'ī's position is that, as the supreme champion of the Sunna, to guarantee the security of which, when faced with the demand that the Qur'ān must not only be acknowledged to be, but must be seen to be the primary source of the Law for the Muslims, he had argued that nothing, not even the Qur'ān could abrogate a sunna, excepting only another sunna equally authenticated. To reinforce this principle, he balanced it with the corollary argument, drawn ostensibly from the Qur'ān, that nothing could abrogate the Qur'ān save only the Qur'ān. While placing the Sunna, quā source, upon a level, which (whatever he might say as to theory), was in practice /



practice, a degree higher than that occupied by the Qur'ān, he was forced, at the same time, in order to vindicate his insistence upon the acceptance of the Sunna, to find the grounds for this acceptance in the Qur'ān, since his opponents were seemingly deaf to any other justification - indeed there is no other justification. The content of those sunnas which are patently in opposition to the statements of the Qur'ān is paradoxically, to be defended by constant reference to the Qur'ān's verification of Muḥammad's right to rule. Such legislation as Shāfi'ī identifies with the Sunna of the prophet, is defended, even where it conflicts with the Qur'ān texts, by appeal to the principle of bayān, ostensibly derived from other Qur'ān texts. The Qur'ān is revealed and Muḥammad is a prophet. Therefore, whatever is attested as coming from Muḥammad cannot conflict with the revelation made to him, but has to be accepted as the elucidation of what God meant to say in the Book He had revealed. The Qur'ān by bearing witness to the Sunna, is thus made to testify against its own contents. Shāfi'ī exploited his minor premiss: that the Sunna cannot abrogate the Qur'ān - merely as the coin he was prepared to pay in order to extort, in exchange, as the allegedly corollary argument, the material theoretical requirement upon which his fiqh rests, sc. that the Book be not permitted to tamper with the Sunna. The Book cannot judge the Sunna. The Sunna can, and frequently does judge the Book. The rigidity of this theoretical position proved so /

so successful, that for centuries after, knowing that stoning cannot be a sunna, since the Sunna cannot abrogate the Qur'ān, many Muslim scholars have argued that stoning must have originally been a qur'ān. But there is no stoning verse in our Qur'ān. A verse whose ruling has remained operative since Muḥammad's day could not have been omitted from the Qur'ān if the Qur'ān had been collected by the prophet. Therefore the prophet had not collected the Qur'ān. This must be the work of the Companions, to allow for the omission of the verse.

Mālik in his Muwatta', had of course, referred to the Qur'ān's stoning verse before Shāfi'ī, but Mālik's thinking had represented a much more primitive and less formal attitude to sources than the systematising efforts of Shāfi'ī. The followers of Mālik, reacting to the 'stoning-verse' ḥadīth as to only one, and that not particularly emphasised, among the collection of available ḥadīths, all alleging the historicity of stoning as an Islamic penalty, and not feeling bound either by it, or by the Shāfi'ite 'uṣūl principles, were content to draw the conclusion that since there was evident conflict between the penalties established in Q.IV,15-16; in the 'Ubāda and the 'asīf ḥadīths; and in Q.XXIV,2, there was evidence of abrogation. The Qur'ān's flogging penalty had, they argued, replaced the penalties of Q.IV,15-16 and the Sunna had replaced this flogging by stoning in certain conditions /

tions. Flogging represented the abrogation of the Qur'ān by the Qur'ān, while the stoning penalty represented the abrogation of the Qur'ān by the Sunna.<sup>1</sup>

The difference between the Mālikī and the Shāfi'ī position, can be summarised by pointing out that the situation faced by Mālik differed essentially from that encountered by Shāfi'ī only one generation later. Mālik was accounting for the contemporary view of the Islamic practice held by the Muslims at Medīna, adducing, occasionally, as the documentation of the alleged continuity of their practice, evidence from earlier authorities, which might in some cases involve reference to revealed statements. Shāfi'ī, following the establishment of the abstract Islamic theory of prophethood, is engaged in quite another situation. His rôle, as he sees it, is, both on the intellectual level, to identify and set out those principles of derivation which, it was thought, had governed the definition of the Islamic sharī'a as a unique system of valid religio-legal norms revealed by God to the prophet of Islam, and hence on the historical level, to isolate, not the statements of views by earlier Muslim authorities, but the uniquely certain utterances attested as coming from the prophet. That Shāfi'ī was consciously engaged in extricating Islam from its precursors in the cycle of /

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1. ibn al 'Arabī, op.cit. I, p.361.

of revelations, is clear from his attitude on the question of the stoning penalty, where no contribution from the Torah is to be acknowledged. His use of scathing language directed at those Muslims who consult the Jews and Jewish works, in his repetition of the earlier accusations levelled against the Jews of having interfered with the texts of the Torah, his determined refusal to accept them as trustworthy and reliable witnesses in court and his introduction of references to Islam as 'the latest of the divine communications to Man', indicate that Shāfi'ī was well aware that abrogation, as a science, concerns not merely internal abrogation, within the Islamic revelation, but also external abrogation within the historical series of divine revelations, and that here too, the later supersedes the earlier situation. Thus another essential difference between the tone of Mālik and that of Shāfi'ī is the latter's conscious rejection of the former's complacency towards the alleged Jewish contribution to the evolution of that Islamic system of doctrines which he is engaged in documenting. The most surprising feature of this rejection is its date.

Shāfi'ī's consistent solicitude for the discovery and the preservation of the Sunna of the prophet, taken together with his polemic against those Muslims who considered that the Book<sup>1</sup> is /

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1. i.e. the Qur'ān.

is sufficient guide for the Faithful, explains that particular insistence with which he laid emphasis upon his dual principle: that the Qur'ān can be abrogated only by the Qur'ān; and that the Sunna can be abrogated only by the Sunna; Only the latter of the two propositions however, had immediate theoretical moment for him and he consistently invoked it to neutralise any qur'ān which might be thought to cast doubt on some sunna, and thus indict the alleged historical connection between the doctrine and Muḥammad. It cannot be sufficiently emphasised that the attitudes expressed by Mālīk and the Ḥanafīs represent the pragmatic conclusions they felt entitled, as Muslims, to draw from the materials they had inherited as the data of their legal systems, together with its then documentation. That the documentation existed suggests an earlier stage when the documentation had been called for - in the shape of proof from the Muslims' ancestors and a revealed Book. This was developing before Shāfi'ī into a documentation from a prophet and a revealed Book. The demand for such 'proof' indicates an earlier polemic stage, in which Islam, confronted by the earlier revealed systems, had been called upon to verify its identity. The evolution of the concept of 'sunna', indicated by Schacht, may suggest a rough timetable for these developments, in the theory, which was designed to give to the doctrine the appearance of continuity. It was, one might imagine, much easier for the Muslims to recognise what was asked of them in /

in the demand for a revealed Book. That the Book, when produced, was not invariably the Qur'ān, or, if the Qur'ān, that it was so much at variance with the doctrine, provides another clue to the time-scale and background of these developments. There appears, both from the negative ibn 'Abbās ḥadīth, and from those ḥadīths concerned with tracing the stoning penalty to the Book of God, to have been a stage of uncertainty, even here, as to precisely how widely or how narrowly this vague expression was to be understood. There had clearly been a stage when to many the Book of God had not automatically meant the Qur'ān. There was no requirement to upbraid Muslim scholars for consulting books other than the Qur'ān unless they were actually seen to be doing so. But why should they do so? They could evidently not be content to accept the verification of the doctrine solely on the evidence of the Sunna of the prophet. There had, in addition, to be documentation from the revealed Book of God. Documentation was found in a revealed Book of God for the stoning penalty, and there is no little mystery in the quite extraordinary circumstance that the Muslims had a penalty and its documentation that coincided with those of the Kara'ites!<sup>1</sup> Responding to the objections of those among the Muslims who rejected the stoning penalty, on the plea that they /

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1. cf. Baron, op.cit.V, pp.240-1. For stoning a plea of guilty was now accepted as sufficient evidence!

they could not find it mentioned in the Book of God, the scholars, rather than refer it to the Sunna had succeeded in tracing it to a Book of God. Shāfi'ī's attitude is radically distinguished from that of his forerunners by a peculiar disposition to impart not merely a normative character to the doctrine, a process already fairly advanced in the work of his predecessors, but to emphasise with a novel and self-conscious intensity the exclusively Islamic, as opposed simply to the revealed character of his sources. The 'islamisation of the fiqh' in the sense of the equipping the doctrine with documentary sources from Qur'ān and Sunna, at the instance of the pious, and discussing all acts of omission or of commission in ethical, as opposed to legal categories of language, is certainly the work of scholars such as Mālik and 'Abū Ḥanīfa. In Shāfi'ī's case, an additional factor operates. The statements of ibn Ḥajar and of Mekkī, on the attitude of the Mālikiyyah and the Ḥanafiiyyah on those enactments of Muḥammad, datable to his first arrival at Medīna, when 'he was commanded to adhere to the Torah until its individual provisions should be abrogated by Islamic laws' and ibn Ḥajar's report that certain of the scholars considered the laws of the revealed systems which preceded Islam to be still binding upon the Muslims, so long as that had been attested by the indication of the Qur'ān or by a reliable ḥadīth from Muḥammad, and so long as the abrogation of such laws had not been attested by the reports on the legislation of /

of Muḥammad, or of another prophet, before him, and that on this basis, Muḥammad's stoning of the Jews, tended to indicate his awareness that this penalty of the Torah had not been abrogated, the more strongly emphasise Shāfi'ī's quite differing handling of the same question. He was at quite considerable pains to depopulate the Medīnan area of dhimmī Jews, in a determined effort to dissociate the Islamic penalty from the penal law of Medīnan Jewry and to make it plain that Muḥammad's inflicting that penalty on Jews had been based solely on the law that had been revealed to him, in his capacity as prophet of Islam.<sup>1</sup> Shāfi'ī improves on this by tampering with the date of the alleged events, and arguing that Muḥammad had merely applied to the Jews an already existing penalty that had been instituted within Islam for the Muslims. These are not conclusions based on evidence, but a priori premisses, deriving from a mature view of the history of the inter-relation of the successive divine revelations to Man.<sup>2</sup> That he is defending not an interpretation, but a previously settled doctrine, is indicated by statements such as: Were one to allege that the bequest abrogated the inheritances, is there any proof that we can find against his claim, other than the khabar?<sup>3</sup> When Muḥammad /

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1. vide Umm, IV, p.129.

2. Umm, VI, p.125.

3. Umm, VII, p.251.



Muḥammad inflicted upon the Jews the penalty of stoning he said: I shall judge between you on the basis of the Book of God. Some have interpreted this as a reference to the Torah, but we learn from the scholars that the persons stoned were not dhimmīs, but persons seeking the personal decision of Muḥammad and agreeing, in advance, to abide by it. This is the equivalent of a khabar, since the identification of a nāsikh is dependent upon either: a report from the prophet, or from one of his Companions, none other dissenting, or from a matter on which the generality of the fuqahā are unanimous; Shāfi'ī knows of no scholar who has reported that the prophet ever judged dhimmīs.<sup>1</sup> Q.V,49, requiring one to judge has therefore, not been established as the abrogand of Q.V,42 permitting one to judge or to refuse to hear the case. Hence, the contemporary disputes about whether or not a Muslim may judge dhimmīs, and if he does judge, on what basis of law he ought to judge, are not to be projected back to the time of the prophet, and used to vindicate some theory that Muḥammad had judged Jews on the basis of the Jewish Law. What is novel about these arguments, is the enunciation of the principle that with the coming of Islam, the Jewish Law in any case had been rendered quite irrelevant.<sup>2</sup> The later revelation of Islam had abrogated in its entirety the earlier revelation /

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1. See previous page, n.2.

2. Umm, VI, pp.124-9; cf. ibn al 'Arabī. op.cit. II, p.621.

revelation of Judaism.<sup>1</sup>

In Q.V,42 is the bayān that God had granted His prophet the faculty to choose whether to hear ʿahl al kitāb, or to refuse to hear them, but imposed upon him was the obligation, in the event that he did choose to judge them, to base his decision upon qisṭ, and by qisṭ is meant that revelation that God had sent to Muḥammad in the latest of His communications to Man. Stoning is the Islamic penalty. The testimony of dhimmīs is unacceptable since we are aware that they lie against God Himself, and thus would have few scruples about lying against fellow-humans. They had cast the Book of God behind their backs, and altered it. God Himself informs us of this. By reason of their dhimma, however, we permit them access to their own courts of law, although we are aware that their judges base their decisions on considerations other than the revealed truth. In order to judge the dhimmīs, we should have to question them on the sources of their law, yet our own Book is the latest divine communication and we Muslims recite it unaltered and untampered with. They have altered theirs, and written materials of their own devising into it.<sup>2</sup>

Considerations /

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1. Tab. Taf. X, p.338.

2. Tab. Taf. X, p.352 ibn Zeid interprets Q.V,44, as:  
whosoever judges by the book that he has composed, and ignores the Book of God.

Considerations such as these should suffice to prevent the Muslims from questioning the kitābīs.<sup>1</sup>

The ḥadīths which showed Muḥammad enquiring of the Jews on the penalty for fornication in their law, are worked over in the light of the polemic doctrine of taḥrīf/tabdīl, in order to show that his motive had not been to profit from his enquiry, but to expose publicly Jewish hypocrisy and knavery.<sup>2</sup> How ironical it is to be soberly informed that the crime of the Jewish scholars contemporary with Muḥammad had been their having substituted for the revealed stoning penalty imposed in their Torah their own school invention - the penalty of flogging.<sup>3</sup>

Committed to over-rigid procedural principles, and enmeshed in his own logic, Shāfi'ī, the inheritor of the Islamic stoning penalty, failed to make his position on the problem of its source quite clear. His successors, left to draw their own conclusions, opted variously for one of the two possibilities: that the sunna of the stoning 'proves' that the Sunna can abrogate the Qur'ān; or where this is a priori rejected, then stoning must originally have been a qur'ān which no longer happens to be recited at prayer or present in the texts. This latter alternative is one source of the third mode of abrogation naskh al tilāwa dūna al ḥukm.

Shāfi'ī /

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1. Umm, VI, p.130.

2. cf. Ṭab. loc.cit. p.305; cf. ibn al 'Arabī, II, p.617.

3. Ṭab. loc.cit. pp.311, 314.

Shāfi'ī pressed the legitimacy of this principle of abrogation curiously enough, not on the question of the stoning penalty, but on quite another doctrine. He knew, and himself used, the ḥadīth about the 'stoning verse' that had once stood in the Qur'ān, but did not emphasise it. On another legal question which was much debated - the minimum definition of the term riḍā' - a matter of some social consequence, since it defined the forbidden degrees and thus identifies those persons who may or may not visit women - Shāfi'ī showed himself much more positive:<sup>1</sup>

"Riḍā' is a comprehensive term which might refer either to one single suckling, or to more than one, right up to the complete riḍā' which requires two full years.<sup>2</sup> Indeed, it could still apply even after the two years. This being the case, it is incumbent upon scholars to seek out an indication as to whether any bar is set up by the minimum that would constitute the riḍā', or whether some other minimum was involved.

ʿĀ'isha has said: 'There were, in what was revealed of the Qur'ān, ten attested sucklings required to set up a bar; these ten were abrogated by five attested sucklings. The prophet died and the five were still being recited in the Qur'ān.' /

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1. Umm, V, p.23.

2. cf. Q.II,233.

Qur'ān.' She used to say: 'The Qur'ān was revealed with ten attested sucklings setting up a bar; these became five to set up the bar.' No man ever called upon 'Ā'isha who had not completed the five sucklings.

'Abdallāh b. al Zubeir said: 'The prophet said: 'Not one, and not two sucklings constitute a bar; nor one nor two sucks.'

'Urwa reports that the prophet ordered the wife of 'Abū Ḥudhaifa to nurse Sālim five sucklings to set up the bar. She did so, and always considered Sālim a son.

Sālim b. 'Abdallāh said that 'Ā'isha sent him away; he was being suckled by her sister 'Umm Kulthum who, however, suckled him only three times and then fell sick. She did not suckle him more than the thrice. He added: 'I could never visit 'Ā'isha, since I had not completed the ten sucklings.'

Nor, Shāfi'ī points out, in the interests of his doctrine, had Sālim completed even the five.<sup>1</sup>

Shāfi'ī adopted the doctrine of the five, as from the prophet, on the strength of 'Ā'isha's report that the five constituted the bar and were Qur'ānic.

This /

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1. loc.cit.

This question is then linked with those on stealing and fornication. "There is a Qur'ān on cutting hands but the prophet laid down the Sunna of cutting in cases of a quarter dīnār, or from a store-house. There is a Qur'ān on the flogging of fornicators. But the prophet stoned non-virgin fornicators, and did not flog them in addition. We thus conclude, from the Sunna, that the original divine intention had been to cut off the hands of some thieves, to the exclusion of others; to flog some of the fornicators, to the exclusion of others. Those verses had not originally had reference to all persons covered by the terms 'thief' and 'fornicator'. Similarly, we deduce from the Sunna that the meaning of the bar by reason of fosterage originally had been intended to apply to certain persons, to the exclusion of others, although all are covered by the term 'riḍā'."¹

He enlarged on the question of fosterage in his dispute with the Mālikīs,<sup>2</sup> where he quotes another ḥadīth: Ḥafṣah sent 'Āsim b. 'Abdallāh b. Sa'd to her sister Fāṭima to be nursed ten sucklings so that he might be able to visit her. The Mālikīs report the 'Ā'isha ḥadīth that the five sucklings were being recited, as part of the Qur'ān when the prophet died; they report the prophet's command to Sahla bint Suhail to suckle Sālim; they report from two widows of the prophet; and /

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1. Umm, V, p.24.

2. Umm, VII, p.208.

and yet, they neglect all these reports in favour of the doctrine of Sa'īd b. al Musayyab that a single suckling sets up a bar. They ignore both the report from 'Ā'isha and her and Ḥafṣa's ra'y in favour of ibn al Musayyab's ra'y which, on other occasions, they equally ignore, in favour of their own opinions. They set aside what comes from the prophet, from 'Ā'isha, from Ḥafṣa, from ibn al Zubeir and from 'Abū Huraira. (for b. Musayyab's ra'y cf. Q IV 23 ! )

Asked by Rabī' b. Sulaimān whether ibn al Zubeir had heard direct from the prophet, Shāfi'ī replies: "Yes! he preserved material from the prophet directly, for on the day the prophet died, 'Abdāllāh was nine years old."

The delineation of the theoretical distinctions between takhṣīṣ and naskh is a popular theme for later scholars. Basically the distinction is summarised in the slogan: Naskh is the bayān affecting times; takhṣīṣ is the bayān affecting persons.<sup>1</sup> Naskh is the termination of a regulation which had, from the beginning applied to all individuals indicated in the original ordinance. Abrogation merely elucidates that the divine intention had always been that the ruling should apply only to certain portions of time, as opposed to applying to all sections of time.

Takhṣīṣ makes it clear that, even if the original statement were /

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1. naskh: bayān lil 'azmān; al takhṣīṣ, bayān lil 'a 'yān.

were general in utterance, and was thus taken to apply to all individuals covered by the general terms 'thief', 'fornicator' and so forth, the divine intention had nevertheless been from the outset, that the regulation should apply only to certain individuals, as opposed to others. Until takhṣīs occurs, we have to regard the regulation as affecting all the individuals mentioned.

Until 'naskh' occurs, we have to regard the regulation as affecting all times. Naskh thus removes, for the future, the entirety of the regulation. Takhṣīs removes part of an apparently general reference in the regulation and limits its application for the future to only certain individuals.<sup>1</sup>

The application of this principle is thus necessarily retrospective. Since men cannot fathom the meaning of the divine intentions, guidance is essential in the shape of the Sunna of the prophet.

Scholars regularly complain that people are continually confounding takhṣīs with naskh, on account of their similarity, since both are bayān.<sup>2</sup>

Shāfi'ī argued that the Islamic penalty for fornication, in the case of the non-virgin, as attested by the Sunna, had originally /

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1. Mekkī, op.cit., bāb: al farq baina al naskh wa al takhṣīs.

2. Ja'barī, op.cit. fol.5. Takhṣīs is a snare on account of its similarity to naskh and owing to their both being bayān.



originally been both flogging and stoning. The later Islamic penalty had been stoning alone, the Sunna once more attesting that Muḥammad had dropped the flogging. Non-virgins are one category of fornicators. The stoning penalty Shāfi'ī would, thus, represent as takhṣīṣ-bayān of the Qur'ān offered by the

on God's behalf, the elucidation His mention of flogging. This originally imposed as the permanent virgins; non-virgins are now underly excluded from the reference of and not, unaided have guessed this. same as tabdīl, alteration or substitute the brilliance of his arguments, that that Islam offers penalties imposed in the Qur'ān - banishment over virgins, and stoning over and above

If his intention, in deciding not the so-called 'stoning-verse' had

been to represent the Islamic penalty as bayān-takhṣīṣ, rather than bayān-naskh, his failure on that score is clear. Stoning either replaced flogging, which is naskh, or was additional to flogging, and, according to another slogan current in the Ḥanafī school, any addition to the texts is abrogation.

The Islamic penalty for fornication in the post-Shāfi'ī theory:

The views expressed by the post-Shāfi'ī scholars show themselves to be almost equally divided between two distinct groups, according as the stoning penalty was thought to have been provided a) in the Sunna, or b) in the Qur'ān.

Naturally, only those who considered the Sunna capable of abrogating the Qur'ān adopted the first of these views, while the opponents of the view that the Sunna could be held to have abrogated the Qur'ān on any matter, assigned equally naturally the origin of the penalty to the Qur'ān, but to a Qur'ān whose wording had long since been withdrawn, although its ruling was conceived to have continued valid.

Typical of the first of these views are the opinions of e.g. ibn Ḥazm<sup>1</sup>; Ṭabari<sup>2</sup>; Naḥḥās<sup>3</sup>; ibn al 'Arabī<sup>4</sup> and Baiḍāwī<sup>5</sup>.

The discussion of Taftazānī<sup>6</sup> brings out the essentials of the second view : [Maḥbūbī stated that] ' Some of our colleagues have argued that the abrogation of the Qur'ān is attested by the abrogation of the bequests to parents and nearest of kin by the prophet's dictum : lā waṣiyyah li wārith. Others, on the /

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1. op. cit. p. 169.

2. Ṭaf., VIII, p. 80.

3. op. cit. pp. 98 ff.

4. op. cit. I, pp. 354 ff.

5. vide Minhāj al Wuṣūl, bāb al naskh.

6. K. al Tawḍīḥ, Kazān, 1884, pp. 416 ff.

the grounds that Q IV 15 was abrogated by the prophet's words, in the 'Ubāda ḥadīth : 'Flogging and stoning'. This view is wrong, since the bequest in favour of the heir was abrogated by the inheritance verses..... Moreover, 'Umar has stated that stoning was part of the Qur'ān. Thus, Q IV 15 was abrogated, not by the 'Ubāda ḥadīth, but by the Qur'ān, by 'the stoning verse' : al sheikh wa al sheikha ... That verse was originally part of the recited Qur'ān, but its recitation was subsequently abrogated, although its ḥukm continued valid.'

Taftazānī comments : ' the observation : this was part of the recited Qur'ān means that Q IV 15 was abrogated by the stoning verse, which is mansūkha al tilāwa dūna al ḥukm, while the earlier verse, Q IV 15, is mansūkha al ḥukm dūna al tilāwa. The stoning verse, although not a mutawātir qur'ān, and hence, written in the muṣḥafs, is nonetheless, considered kitāb and not sunna. It was on this account that 'Umar said : But that I fear that it would be said that 'Umar has added to the Qur'ān something that is not Qur'ān, I should have written : 'al sheikh wa al sheikha' into the muṣḥaf. '

## CONCLUSIONS

The sole outstanding and striking constant throughout all such discussions is the unanimity of the regions on the doctrine that in certain circumstances the penalty is stoning, and the admission that that penalty is nowhere mentioned in our /

our texts of the Qur'ān. This agreement is only emphasised by the parallel lack of agreement on all other related questions. Banishment, for example, is nowhere mentioned in the Qur'ān in connection with sexual misconduct, and the differing reception given to that alleged element in the penalty suggests that stoning and banishment had entered the discussions in different stages of the development of the consideration of the sources. Banishment may have been a Hijāzī concept<sup>1</sup>. The contrasting unanimity of East and West might indicate further that the stoning penalty may have formed part of an ancient stock of common doctrine originally constructed without direct reference to the Qur'ān. Objection to the penalty on the grounds that no mention of stoning is to be met with in the Qur'ān were posterior to the notion that the Qur'ān was to be consulted for the details of the doctrine. This in turn would be posterior to settlement of the meaning of the expression : kitāb Allāh, for the parallel references on this question to the Pentateuch and to the Qur'ān suggest that at the outset of the call for documentary evidence as to the Islamic doctrine, on this question, no particular exclusiveness operated against the claims of the Torah to be a revealed Book, in favour of similar claims made on behalf of the Qur'ān. But it is conceded on all sides that the stoning penalty is not mentioned in the transmitted texts of our Qur'ān. We are thus, no nearer a solution to the question of /

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1. vide ibn al 'Arabī, op. cit. I p.359.

of the historical origin within Islam of the penalty itself, as distinct that is, from its documentation. Stoning, naturalised in Islam before the Qur'ān began to be taken into detailed account, and firmly enough rooted to withstand the severest questioning and some resistance, is derived, not indeed from the Qur'ān, but from what was understood to be in the Torah. Some of the Muslims must have thought this, for otherwise, there is no accounting for the frequency of their attribution of that penalty to the Jewish Law and Scripture in those ḥadīths introduced to justify the practice. The Muslims could just as easily have defended their penalty on the grounds that it was the Sunna. There are thus, on the matter of stoning, not one, but two problems : the need, evinced by the multiplicity of attempted rationalisations, for verification of the penalty; and the historical explanation of the presence in the Islamic doctrine of that penalty which then had to be verified. As for the documentation, even the arch-traditionist Shāfi'ī conceded that the stoning penalty was present in the Torah, although he was to insist that, with the coming of Muḥammad and Islam, it was also present, and for different reasons, in the legislation of the prophet. That the Islamic penalty happened to coincide with that of the Torah, he insisted, was quite irrelevant to the Muslims, whose sole point of reference is Muḥammad. But, for the history of those pre-Shāfi'ī endeavours to document their theories /

theories, it cannot be irrelevant that the allegation that that penalty was present in the Torah was made. We shall have to conclude that likewise, for the very presence of that penalty in the Islamic shari'ca, the allegation that it was present in the legislation of the Torah was originally all-significant. Shāfi'ī's insistence that the presence of the penalty in the Torah is irrelevant already provides us with historical information of value. His determination was to dissociate the Islamic system, by seeing it as historically created all of a piece, complete and fully articulated, in seventh century Arabia, isolated and insulated from all contact with its major precursors in the cycle of the divine revelations. For him, Islam, independent of all external contributions and innocent of all borrowings, sprang from a special act of divine revelation direct to Muḥammad. This view speaks volumes for the contemporary polemic situation out of which his particular psychology had emerged in the later second century. Shāfi'ī was in reaction against an earlier generation who, in his opinion, had attributed various elements of the Islamic system to the wrong origins and had ascribed certain of its practices and usages to the wrong sources. Some of these usages and practices he would reject.

Seeking to document the origin of stoning, which had, in the meantime, vaguely been assigned to the Book of God, some had seemed unhesitatingly to see in this a reference to the Pentateuch./

Pentateuch. Opposition to the stoning penalty concentrated upon absence of any mention of it in the 'Book of God'. This is ambiguous, but within Islam it determined the reply, which, as we have seen, passed through two phases : that the Book of God means the Torah; that the Book of God means the Qur'ān. This brings us back to the wording of Mālik's ḥadīth where Muḥammad was alleged to have said : I will judge between you according to kitāb allāh. The case, like that of the Jews, involved sexual misconduct. The presence in the one ḥadīth of the expression ' kitāb allāh', and the recognition that the other ḥadīth involved Muḥammad's alleged decision in a case involving Jews, emboldens one here to suggest that there had occurred in a long-forgotten past a dispute concerning both the historical origin of the Islamic 'practice' and its relation to the prophet. The discussion involved methodology, not indeed, on detailed questions, but on general matters - on what basis had Muḥammad rendered judgments ? It was urged on one side that Muḥammad, as a prophet had invariably decided in accordance with the revealed Law. Some such explanation is certainly of assistance in clarifying the connection between the story of the 'asīf and that of the Jews, especially the former's otherwise inexplicable reference to kitāb allāh. From the story of the Jews, we are here able to detect a reference to Q V 49, as was clear also to Zuhri and to Buchārī<sup>1</sup>. The ancient dispute had concerned the tafsīr. Later /

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1. vide supra pp. 222;228.

Later generations of scholars are then to be seen transmitting ḥadīth materials they no longer quite understood and, submitting them to exegesis, transmuting originally tafsīr materials into sharī'a-documentation materials. They next became the prisoners of their own rationalisations which were to determine for them the future course of their developing methodologies. Unaware that the original dispute had concerned tafsīr, a scholar such as Shāfi'ī accepted ḥadīths that Muḥammad had stoned Jews at their face value, and under the influence of his Sunna-obsession, aided the further diversion of the old 'evidence' in the direction of sharī'a-documentation. For him it was sufficient that Muḥammad had stoned. Stoning was thus the Sunna. Technical ḥuṣūlī considerations decided other scholars, on the contrary, to preserve the memory that stoning had been in accordance with the Book of God. The extent to which the sharī'a-documentation needs subsequently distorted the earlier form of the ḥadīth materials, is shown by the circulation of semi-independent ḥadīths to document Muḥammad's alleged stoning of Muslims. Sooner or later Islamic scholars had had to come to terms with the realisation that the stoning penalty to be applied in the quite specific conditions now envisaged in the sharī'a as attracting its award was not to be found in the existing Torah texts. This would be explained in the only possible way. Muḥammad had applied it, and since, as a prophet, he could not have applied what he knew to have been /



been abrogated, he had applied it because he knew it had not been abrogated. Yet, it is not to be found in our Torah texts. This must be because the Jews have since suppressed (k t m ) it. In Mālik's ḥadīth we saw one naive effort to document this allegation by appeal to a misrepresented Qur'ānic utterance. The same ḥadīth, however, envisaged the wording of the Torah 'stoning verse' as still extant in Muḥammad's day. Further efforts to justify the Islamic allegations of the divine origin of the penalty by accusing the probity of the Jewish scholars led to further misrepresentations of Qur'ānic utterances in the appeals to taḥrīf/ tabdīl. Individual Muslims seeking justification of their doctrine by consulting Jewish experts, or Jewish literature, were liable to be curtly informed that <sup>1</sup> Muḥammad is a liar, there is no stoning in the Torah. The propensity to seek justification in Jewish writings was discouraged on the strength of an ibn 'Abbās ḥadīth<sup>2</sup> which reinforced the claim that the Jews had falsified their books. Finally, reference to Jewish experts or Jewish literature was made quite redundant by ḥadīths such as the following<sup>3</sup>:

'Umar was walking along carrying under his arm a book with tattered edges. Met by Muḥammad and asked what the book was, 'Umar /

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1. Tab, Taf., X p. 312.

2. Umm, VI, pp. 129-130.

3. ibn al 'Arabī, op. cit., I. p. 23.

‘Umar indicated that he had equipped the margin of his muṣḥaf with a division of the Torah. Muḥammad became very angry and asked ‘Umar whether he was unaware that if brother Moses were alive today he would have no option but to follow Muḥammad's rulings.

In this light, Islam is apparently not merely a continuation of Judaism, as some appear to think, but a new, a later revelation which abrogates Judaism. Thus, Muḥammad had stoned not on the basis of the Mosaic legislation, but solely on the basis of the Muḥammedan revelation. This was the final parting of the ways in the interpretation of Q V 42-49. One route led to the insistence that Muḥammad's stoning had been Sunna, by which he had abrogated the provisions of Q IV 15; the alternative route, that stoning had been imposed by Muḥammad, on the basis of a Qurʾānic revelation which had abrogated Q IV 15 could only lead, on the realisation that our present Qurʾān's contain no Islamic 'stoning verse' to the conclusion that this represented therefore an undeniable instance of naskh al tilāwa dūna al ḥukm.

## CHAPTER EIGHT

The alleged Qur'ānic basis of the abrogation principle.

The second century insistence on such conflict of evidence in the Qur'ān, as we saw in the last section, might perhaps, have been expected to have proved a source of acute embarrassment in the first century to the heirs of this self-contradicting Islamic heritage. That it was not so, was explained as having been partly due to the encouragement of the view that a prophetic mission spread over some twenty years might naturally be expected to have shown signs of development, and even some positive changes. Universally acknowledged as one such change was the alteration of the direction of prayer from Jerusalem to Mecca, some sixteen months after Muḥammad's arrival at Medīna. Muslim equanimity was thus principally due to the assertion that such embarrassment as might be provoked by these conflicts observable in the Qur'ān, was believed to have already occurred, not in the earliest generation of the heirs to Islam, but in the lifetime of the prophet himself, and in circumstances which had given God the occasion for a special revelation designed both to relieve Muḥammad of his embarrassment, and to satisfy the Muslims and others as to the /

the source of and the reason for these changes. This special revelation, it was held, was to be found at Q.XVI,101: "And when We change one āya for another - and God knows best what He sends down - they say: 'You are only a forger!' But, the most of them do not know."

This verse came to be regarded by the majority of the commentators as irrefutable and sufficient evidence from God Himself, that the replacement of an earlier by a later 'āya' is a significant aspect of the processes of the divine revelation. But that this point was not reached without considerable dispute and quibbling is also clear from the struggles within the tafsīr discussion of the verse. Protracted struggles there were, which, even in our own day have not quite died down. It is nowhere stated in the course of these disputes what precisely was the root of that acute discomfort felt by certain eminent Muslim scholars, which, although generally left unstated, is nonetheless eloquently signalled by their unsuccessful attempts to exclude this particular 'evidence' from the loci probantes of the abrogation theorising.<sup>1</sup>

The others who explicitly equate this use of the notoriously ambiguous term 'āya' with 'a verse of the Qur'ān', and who further /

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1. See however Sarakhsī, ʿuṣūl, II, p. 54. It is clear that the discomfort was occasioned by the concept of 'tabdīl'.

further equate the root 'baddala' with the other Qur'ānic term 'nasakha',<sup>1</sup> and thus find in this Nahl verse one of the two props of their entire theory, have unwittingly supplied the clue which will enable us hereafter to pinpoint the source of their own unwavering certainty, and, at the same time, of the unease of their more cautious colleagues.

This verse was held to establish: that 'naskh', as defined by the schools, is a reality; that God, in this revelation, had attributed to Himself 'naskh' as an activity contributory to, and integral with the processes of the divine activity of self-revelation. 'Naskh' was, moreover, held to be a divine activity, the probability of whose occurrence ceased to be open to question or doubt, since the day when this particular verse had first been revealed. The theory of naskh, it followed, must in that case, have been held by Muḥammad and the Companions, and by each generation that succeeded them, as an article of faith, undisputed and indisputable.

Ṭabarī's comment is characteristic of such a view:

"God says: 'On the contrary, the majority of them do not know.' By this, God means: 'When We nasakh the ruling embodied in an āya of the Qur'ān, and substitute, in its place, the ruling, embodied in another āya - 'and God knows best /

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1. Q.II,106; Q.XXII,52. vide Suyūṭī, ItQ, II, p.20.

best that which He reveals' - i.e. God knows best what is most beneficial to His creation in such substitutions, or changes, as He makes in His enactments, - they say: 'You are just a forger.' The polytheists, who would give the lie to His prophet, say: 'Muḥammad, you are just a fraud!' But God says: 'On the contrary, the majority of those who say to you: Muḥammad, you are just a fraud, are unaware that that which you bring to them, (both the nāsikh and the mansūkh of the Qur'ān), is all equally and genuinely from God. They do not realise the truth of its authenticity.' "

All this, far from being a comment on the verse, is merely the rationalisation of the Muslim doctrine. The fact of 'tabdīl', as a revelatory phenomenon is clearly, and certainly, since mentioned here in the contemporary Qur'ān, an article of the faith of Muḥammad, and must be taken as having formed part of the reasoning and teaching of the prophet to his countrymen. What exactly this implies is, however, not easy to come at without considerable examination of Qur'ānic passages. That it necessarily implies, as the scholars insist, that Muḥammad accepted and taught the doctrine of al nāsikh wa al mansūkh, is not only wrong, it can, and will be shown to be wrong, when we have completed our preliminary detailed study of these terms 'baddala' and 'nasakha'. The most that one is justified in saying, at this point, as a certainty, is that it is safe to concede /

concede the highest antiquity to a general, and, as yet, informal notion that revelation-by-substitution can, and does occur, and, as evidenced by the Qur'ān in this very verse, is acknowledged by God and His prophet.

But, when ibn Ḥazm says that one benefit of what has been handed down is the knowledge of 'the nāsikh and the mansūkh', and hence the capacity to make that distinction essential to the derivation of legal principles from the body of the documents that have come down, this is no less than a clear assertion, based on mere words, that the ḥadīth is the sole judge of the present validity of the individual revelations. So too, traditions used by the Muslim writers on 'the nāsikh and the mansūkh' are a projection back, into the generation of Islam's beginning, of definitions and principles which did not achieve their present formulation until the disagreements among the scholars who attempted the first Islamic statement of the Law highlighted the desirability of rendering one's traditional position on any question at issue, immune from the charge that it represented nothing higher than merely the outcome of having applied one's own fallible human judgment<sup>1</sup> to issues discussed in the documents of the revelation. Disputing scholars cannot, one might imagine, distinguish the nāsikh from the mansūkh, until one has first established what /

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1. ra'y.

what, in practice is meant by 'naskh', and so, settled precisely what, in practice, can naskh what. It is clear from Nahḥās' table of differing theoretical views, on the relative status, quâ source, of Qur'ān and Sunna,<sup>1</sup> as also from every page of Shāfi'ī's Risālah, that these questions were still far from agreed in either the practice, or the theory of the Muslims, as late as two hundred years after Muḥammad and the Companions had been laid in their graves. The high antiquity of a generalised theory of revelation by substitution is doubtless defensible, not only on the grounds of Q.XVI,101, - (whose meaning, however, has still to be examined) - but, from other grounds in the Qur'ān, such as for example, the already mentioned alteration in the qibla, to be discussed more fully below. Being a concrete instance of alteration by substitution in an important aspect of the cult, the qibla is a surer ground for our discussion than the vague and more abstract reference in the Nahl verse, with which, however, it shares the inestimable advantage of Qur'ānic mention. Moreover, since the qibla is mentioned in the Qur'ān, in a documented discussion contemporary with the event itself, it affords us more light on Muḥammad's thinking than the discussions in the learned literature, first penned only two centuries later. Another consideration in favour of the antiquity of a generalised /

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1. vide supra, p. 79-80.



generalised substitution theory is that it must presumably be prior, at least, in Muḥammad's own thinking, and in that of his adherents, to his view of the relationship, one to the other, of the major dispensations originated in the prophetic cycle. His thinking on this will, of course, include his own view of himself, and his place in the cycle, as heir to the functional rôle played by the major prophets in the evolution of the religion-based communities still surviving in his own days. Had he, for example, considered himself their heir-in-full, he must presumably, it might be urged, have adhered in all matters to either the Christian or the Jewish Law. Whether Muḥammad's view was conscious, and, if articulate, whether it was consistent, remains to be discussed; whether it bears much, if any relation to what later came to be known as 'naskh' is the most important question of all.

What ibn Ḥazm, and the others, mean by 'al nāsikh wa al mansūkh', is one or the other of the special theories of naskh, which evolved by theoretical retrospective selection of techniques to document and legitimise doctrine in the discussions and disputes over sources and methods in the scholastic age. Their function, as the term implies, is to determine - granted that naskh, as defined, occurs - precisely where it occurs.

In distinguishing the nāsikh from the mansūkh, the former, was /

was held to be of the highest significance, for legal and theological purposes, while the latter, if it survived at all, will have no legal or theological effect, apart from its existence, by which, in association with the evident suspension of its legislative faculty, doubts that naskh had occurred historically could be set aside. To distinguish the nāsikh from the mansūkh, in such a manner, is obviously, as a procedure, considerably posterior to the fact of conflict. The definitions of naskh, and the decisions as to the modes by which it has historically operated, the extent of its operation, and the validity, relative to each other of the major components of the status quo within 2nd century Islam - the Qur'ān, the sunna of the prophet, the sunna of the Companions and of their successors, the Books and the sunnas of the previous dispensations, the customs and usages current in the territories brought under rule by the Muslims, the fiscal and administrative dispositions of generations of successive Islamic governors, the ijtihād of the earliest Muslim scholars... had first to be settled within the theory of sources. In all such discussions, it is a commonplace assumption, stated, or merely implied, that the special theories of naskh - and therefore, the general theory also - have a Qur'ānic origin, or, at the least, a high degree of Qur'ānic support, chiefly in the two verses most commonly adduced as 'proof-texts' in this connection: the verse we have seen from Q.XVI and the verse /

verse from Q.II, considered in detail below. Other verses, less frequently quoted directly, have likewise been pressed into contribution to the thinking on all these matters, and thus there has arisen a considerable comment element, in ḥadīth, in fiqh and in tafsīr literature. In view of this supposed Qur'ānic connection, it might be expected that the earliest working out of the general theory would be presented in the exegetical literature. Unfortunately, however, exegetical literature is not early, and the oldest of the surviving major works of tafsīr - the Jāmi' of Ṭabarī, d.310, is already a full century later than the fundamental works in both jurisprudence (fiqh) and in sources-theory (ʿuṣūl al fiqh), which already exhibit the practical application of the various special theories. Ṭabarī affords us, nonetheless, valuable glimpses of the earliest stages of the discussion among the 'exegetes' and the 'readers' of the various aspects of these questions of abrogation, and the modes of their operation, which we can now set beside the conclusions of the practical law science, for comparison. Ṭabarī, himself, it will be clear, stands less at the beginning of the detailed study of these matters, than somewhat towards the end of the theoretical stage, and represents, not so much pioneer contribution, in his own right, which might perhaps, not have been very interesting, given the lateness of his dates, as an interim report on the progress /

progress the community had made in these questions, by the close of the third century. It is in his capacity of collector and preserver of the tradition materials still in circulation in his generation, and handed down from the discussions alleged to have occurred in the pre-literary ages of the first one and a half centuries,<sup>1</sup> on all aspects of the text of the Qur'ān - the consonantal and vocalic 'readings' proposed, the suggested etymologies and the exegetical exercises attempted - both those destined to success, and hence, adoption, as well as those fated to failure, and thence rejection - that Ṭabarī offers a treasure-trove of information which provides an insight into what was imagined to have been the gradual thinking-processes of the Muslims in the first experimental days, as they felt their way tentatively towards the finally accepted formulations.<sup>2</sup> Ṭabarī's generation, it is clear, had been preceded by a protracted period of detailed dissection of the Qur'ān texts, whose /

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1. As to dating, we must bear in mind the warning issued by H. Birkeland, op.cit.: No.II, "Ṭabarī has omitted every interpretation which was definitely rejected by the 'ijmā' about the year 300 A.H."
  2. ibid. No.I. Extremely few traditions in Ṭabarī are marfū'a. The great bulk of them has as oldest authorities, men living about 100 A.H. [Oslo; 1955. II Hist-Filos Klasse, Nos. I and II].

whose features - consonantal, vocalic, syntactical, and etymological - had been minutely scrutinised, analysed and pensively mulled over in a number of rival academies which had emerged in the scattered development areas of the new empire, in an atmosphere charged with those intense and keen divisions on linguistic and theological principles characteristic of a recently opened and still lively, because yet unresolved, discussion. During the course of these sometimes acrimonious debates, the competing factions had hammered out the varied compromises which lie behind, and were later to be reflected in the numerous 'variant' readings ultimately recognised by less passionate generations as equally valid and orthodox. These 'readings', each accompanied by its critical apparatus of ḥadīth and 'language' proofs, do not represent, as the traditional accounts assume, disinterested scientific attempts by the 'academicians' to derive, from a defective primitive script, the pristine text of the Qur'ān, as delivered orally by the prophet in Mecca and in Medīna, but rather, the slogans of competing bodies of opinion, by implication, differentiated by fundamental oppositions of a philosophical or theological character. Their importance to us, is that they parade, for our retrospective examination, several of the alternative views which, in their own day, had warred among themselves for the palm of recognition and adoption as the exclusive standard /

standard of Islamic orthodoxy. These 'readings', considered together with fragments of information scattered through the ḥadīth, tafsīr and fiqh works, provide us with the documentation of these obscure ancient quarrels. Thus, for one of the two foundation-verses on whose basis the Muslim theories of abrogation have been justified, and now rest, Baqara 106, no fewer than eleven significant 'readings' have been recorded, each of which reflects a particular attitude to the nature of God's dealings with His creation; to the modes of the divine revelations; to the character and function of prophethood, and the qualities with which God was thought to have endowed His prophets, and His prophetic community, Islam, and finally, to the relation thought to subsist between God's Book and Man's practice.

The Qur'ānic discussion of the alteration of the qibla:

This occurs in Q II. The bulk of the chapter to this point is occupied with Muḥammad's address to the Jews which varies in tone, between appeal and polemic. v. 40 reminds them of God's past favours in the light of which they are now summoned to fulfil their ancient covenant to believe in that which is now revealed, in confirmation of what was revealed to them. That truth which is with them, they are adjured not to conceal, and they are reminded of the fate of the Pharaoh. When the great Law-giver's back was turned, the Jews showed their ingratitude by falling down and worshipping the calf. This senseless enormity had been forgiven. Unrepentant, they demanded of Moses that they be shown God corporeally. This grave blasphemy had likewise been forgiven. Yet, they still continued to treat Moses contumaciously, and had even dared to kill some of the prophets of the Lord. Even following the remarkable series of events that they had witnessed at Sinai, the Jews disobeyed. Some had profaned the Holy Sabbath. Others, today demonstrate their rebelliousness in arrogating to themselves the prerogative to pick and choose which of the articles of the Law they are prepared to adhere to. The prophet sent by God after Moses they rejected. They reject any prophet who does not suit their whims. They had hoped to overcome the unbelievers, yet, when the Qur'ān came, this too they rejected, from spite and from chagrin that God Should /

should reveal to whom He pleased, part of His blessing. When invited to accept the Qur'ān, they replied that they would accept only what had been revealed to them, yet, even this claim, as the history of their national conduct has shown, was false. Paradise, they allege, is reserved for Jews alone. Their enmity to Islam, proves their enmity to Jibrīl, God's great archangel, who had been entrusted with its delivery to Muḥammad. There could be no clearer evidence of their hostility to God Himself Whose revelations they reject. They evidently prefer Babylonian magic which they busy themselves to propagate. Both the Jews and the unbelievers resent that God should show any favour to the Muslims, but God selects for His blessings whom He pleases, and whenever He suppresses or consigns one message to oblivion, He, the master of the Heavens and the Earth, brings in its place, one similar to it, or superior to it. God is capable of performing whatever He wishes. Or are the contemporaries of Muḥammad determined to emulate the contemporaries of Moses, and to ask of Muḥammad what these had asked of Moses? Many of the Jews would dearly like to see the believers falling back into heathenism from mere rancour at the realisation that what Muḥammad alleges is the truth. Those who accept Muḥammad and submit are promised their reward. They shall have, hereafter, no cause to regret. Who could offer a greater affront to God than those who prevent /



vent His praises from being sung in the temples<sup>1</sup> devoted to His worship and seek to bring them into disuse and ruin? They themselves should not dare to enter them, except in fear and trembling. But these shall also have their just reward, both in this world, and in the hereafter. To God belong both the East and the West, and in whatever direction you turn, you will be facing God. They do more than this, they allege that God has adopted offspring. Glory be to Him Who is the possessor of all that is in the Heavens and the Earth, Who, when He determines on a matter has but to say; 'Be', and it comes into being. The uninformed<sup>2</sup> ask why God does not speak to us directly or why does not a sign come to us. This is just what those before them said. Our signs We have made clear to those who are sure. We have sent you to promise and to warn. But neither the Jews, nor the Christians, who indulge in mutual condemnation, will accept you unless you fall in with their system. The only guidance is that provided by God, and were you to follow their imaginings, after this revelation which has come to you, none could defend you against God. Those to whom We have given the Book recite it, as it ought to be recited, those believe in it. Those who reject it will be the losers.

These /

1. To make this refer to the Ka'ba, the scholars had to ignore, or explain away the plural! vide e.g. Baiḍāwī, Q.IX,v. 17.
2. Those not in the historical mainstream of revelation (‘ilm)?

These passages we elected to quote at length in order to counter the atomism of the traditional exegeses and to show the essential unity of the context which is confirmed by the repetition, at v.122 of the opening address of v.40: "B. ʾIsrāʾīl, call to mind My favour which I bestowed upon you. Fulfil My covenant, and I shall fulfil My part. Me alone fear." The verse continues: "And fear a day when no soul shall avail another aught, nor shall any fee be accepted, nor intercession profit, nor any assistance be found. The God of Abraham tested Abraham, and when Abraham accomplished the trial, God said: 'I shall make you a model for men to follow! Abraham said: 'And one of my seed also.' God replied: 'My covenant does not embrace the evildoers.' "

There follows a series of references to Mecca, its temple and their alleged connection with the father of the race, ʾIsmāʾīl, said, with his father, to have purified God's Holy temple for the performance of prayer and the pilgrimage rites. Their prayer that Mecca be made an asylum that would hereafter be the dwelling of their seed, from among whom would be raised up a prophet to recite to them God's signs, and instruct them in the Book and in the Law, and bring them to purity in the faith of the fathers, was granted. This was that which Abraham commanded of his sons, and ʾIsrāʾīl of his: that they adhere to that religion appointed for them by God Himself. The Muslims will not be asked to account for /

for what the other descendants of the patriarch have done, but will be guided aright if they accept what God reveals to them and what He revealed to Abraham, to ʾIsmaʿīl, to ʾIshāq, to Jacob, and the tribes, to Moses, to Christ and to the prophets, making no distinctions between them. Will they dispute with the Muslims of God? say: 'He is our God and your God. We have our actions, you have your actions. To Him alone are we devoted. Or will you hold that Abraham, ʾIsmaʿīl, ʾIshāq, Jacob and the tribes, were either Jews, or Christians? Do you know best, or does God? Who is more heinous in deed than he who conceals a testimony from God that is in his possession? God is not unaware of your behaviour. They are a nation whose fee has been earned; you shall have what you have earned, nor shall you be examined concerning what they do.<sup>1</sup> Apparently then, the era of Christianity and of Judaism is closed, and a new stage in revelation history is opening. The immediate cause of the contention was the qibla. "Ignoramuses will enquire:<sup>2</sup> 'What has turned them away from the qibla they have been wont to observe? Say, to God belong both East and West, He guides whom He pleases to a valid path.' " There has been a change of qibla, and that change has been effected at the divine command. The former qibla, now abandoned, had been instituted /

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1. Q.II, 141.

2. ib. v. 142.

tuted also at the divine command and within living memory, which still retained awareness of the resistance that had been encountered on its first introduction.

"We did not appoint the qibla that you have heretofore been observing, save as a test of who would follow the Messenger, as opposed to those who would turn on their heels, and indeed, it was a severe test, except for those whom God guided."<sup>1</sup>

This makes two changes: the first, when the qibla, later to be abandoned, had been first instituted, an innovation which had not been acceptable to some of Muḥammad's followers. There would appear even to have been some defections from the cause. Now, the present institution of the Ka'ba qibla is introduced, a change which, has likewise provoked criticism. The Qur'ān does not preserve the text of the introduction of the original qibla, now being abandoned, and we can therefore neither state categorically what was the direction originally faced, nor whether that observance had been based upon a Qur'ān revelation or upon a sunna. Muslim scholars, each in the light of his special theory of 'naskh' later either argued that this phenomenon served to document the abrogation of the Qur'ān by the Qur'ān, fastening for the purpose, on the words: We appointed the qibla /

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qibla that you have hitherto observed.<sup>1</sup> Or, alternatively that it represented an instance of the abrogation of the Sunna, by the Qur'ān on the grounds that the reference in the words: 'those who obeyed the Messenger<sup>2</sup>...' indicated that the Sunna had been the original source of the observance now abandoned.

What both opinions have in common, is, of course, the assumption that the passage in the Qur'ān establishes beyond question the historical occurrence of abrogation within Islam. This conclusion ignores, however, both the overwhelming weight of the evidence indicating that the Muslims themselves, as is seen, in the ḥadīth literature, took the view that what was now being abandoned was the traditional Jewish qibla towards the Temple in Jerusalem, and the relation of Q.II,144 to its total contextual environment in the sūra. Apart from the very lengthy passages which had prepared the way for the introduction of this enactment and which, as we saw, were addressed to the Jews, and in the course of which the change in the qibla was already adumbrated some thirty verses earlier.<sup>3</sup> Q.II,144 itself continues: "And those who were given the Book know that it is the truth from God and that God is not unaware of what they do. But, if you brought to those who were given the Book every sign, they would not follow /

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1. v.143

2. ibidem.

3. sc. at v. 115.

follow your qibla, but neither shall you follow their qibla, nor will they follow each other's qibla. Were you to follow their fancies, after the revelation that has come to you, you would surely be doing wrong."

v.148 concludes: "Each has his direction to which he will turn", which elucidates v.146: "Those to whom We gave the Book recognise the revelation that has come to you, as they recognise their own sons, but a section of them wittingly conceal the Truth" - sc. that Muḥammad is an authentic prophet.

There is nothing in the entire context which might lead us to suppose that the traditional Muslim view, that before the institution, by these verses of the Ka'ba qibla, Muḥammad and his followers, had imitated the Jews, in facing towards the Temple at Jerusalem, during the performance of the ritual prayers, is other than correct. According to Shāfi'ī,<sup>1</sup> the first obligation that God had laid upon His Messenger, in the matter of the qibla, had been to face towards Jerusalem. So long as that was the rule, it was not lawful for anyone to face in any other direction. When God abrogated the Jerusalem qibla, and instituted the Ka'ba qibla, it ceased to be lawful for Muslims to pray any one of the five ritual prayers in time of security in any other direction. The Ka'ba will, of course, /

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1. Ris. p.31.

course, remain the only valid qibla, for a Muslim, until the Last Day. Unfortunately, Shāfi'ī does not discuss whether this instance of abrogation conforms to his special theory of abrogation. This was because he had concluded that the Jerusalem qibla had been a divine institution on which Muḥammad had based his Sunna, just as he was to base his Ka'ba sunna on the divine abrogation of the earlier ruling.

Mālik-Yahya b. Sa'īd - Sa'īd b. al Musayyab used to say: "The prophet, after his arrival at Medīna, prayed towards the Temple at Jerusalem for a period of sixteen months."<sup>1</sup> He was directed to pray towards the Ka'ba two months before Badr.<sup>2</sup> Sa'īd also said that the 'Anṣār had prayed towards Jerusalem for three years before the prophet came to Medīna. This last statement might tend to point to a Jewish origin which is explicitly claimed in a report from Ḥasan and 'Ikrimah: "The earliest instance of abrogation to affect the Qur'ān was concerned with the qibla. The prophet had been accustomed to face towards the rock of the Temple, which is the Jewish qibla. He did this for seventeen months, so that they might come to believe in him, which would also attract the gentile Arabs."<sup>3</sup>

Rabī' reports 'Abū al 'Āliyyah as having said: The prophet /

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1. Ris. pp.19-20.

2. Tab.ṭaf. III, p.134.

3. ibid. p.138.

prophet was permitted to face what direction he pleased.<sup>1</sup> He elected to face the Temple, with a view to reconciling the Jews. This remained his qibla for sixteen months. i.e. it was a sunna, chosen by Muḥammad as a means to attract the Jews, not merely imitated from them. This is a middle-of-the-road explanation.

There is however, a tendency in the opposite direction which seeks to lessen the role of the Jews, even here. al Barā' reports:<sup>2</sup> We prayed with the Messenger of God facing towards the Temple, for eighteen months, but the qibla was changed to the Ka'ba two months after his arrival at Medīna.

ibn Ḥajar inclines to scepticism about this last statement. A conscious attempt to deny entirely any role to the Jews, is represented in that doctrine attributed to ibn 'Abbās that it was God who had commanded the Jerusalem qibla, although, since this was established after his removing to Medīna, the majority of whose inhabitants were Jews, who were delighted with this enactment, their role is perhaps, not quite extinguished.<sup>3</sup>

The motives underlying these later tafsīrs, are entirely relevant /

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1. Reference to Q.II,115 enabled some to argue that this was an instance of the naskh of a qur'ān by a qur'ān.

2. ibn Māja, I, p.322.

3. Tab. loc.cit. p.138.



relevant to the study of the development of attitudes and theories in the post-Muḥammedan scholarship. Our immediate concern, however, remains the Qur'ān doctrine. It is abundantly clear from the texts we have quoted, that the Qur'ān holds a doctrine of abrogation, but, from our examination of this question, we must conclude that, at least on the occasion of the crisis over the qibla, the Qur'ānic doctrine is a doctrine of external abrogation - the replacement, in the later dispensation by the later prophet of an enactment instituted in an earlier dispensation by an earlier prophet (even if that abandoned qibla had not been instituted by Moses). On the qibla question we cannot ignore the fact that the Qur'ān rationalisation and justification of the change is directed mainly at the Jews. The references in Q.II do not cease here, but continue to the discussion of the Law in the new dispensation as this modifies the Law under the old dispensation. Thus, the ṭawāf between Ṣafā and Merwa is countenanced.<sup>1</sup> The simplified dietary laws, alluded to in v.168, are baldly stated in v.173. The immediately following v.174 which continues the denunciation of the Jews for having concealed the revelation foretelling Muḥammad's mission - kitmān, not tabdīl/tahrīf - contains an offensive reference to their being regarded by God as polluted. The qibla is mentioned again, at v.177, which is a celebrated statement /

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1. Q.II, 158.

statement of the Muḥammedan creed. v.178 is an announcement of the modification of the ancient law of the talio specifically and consciously described as takhfīf. vv.180-2 institute the testamentary disposition in favour of the parents and the nearest kin; while v.183 opens the passage declaring the institution of the Muslim innovation, the Fast of Ramaḍān. All three sections carry an expressed reference to the previous Law, and, in addition to the takhfīf of v.178, v.185 proclaims in another celebrated phrase: God desires for you ease, and not that you be burdened. The reference therefore, in v.187 to a further alleviation of the Fast regulations, need not be read, as the traditional Muslim interpretation has viewed it, as another instance of internal abrogation affecting the purely Islamic legislation, the more so, since it is now realised that the later concentration upon the 'purely Islamic' is a reflection of the later social situation fictitiously projected back, for excellent methodological reasons, upon the contemporary Qur'ānic scene in W. Arabia. Indeed, that v.187 is not the discussion of an imaginary 'purely Islamic' situation, is betrayed by the wording of the verse, specifically the phrase: 'until the white thread can be clearly distinguished from the black', which is strongly reminiscent of Mishnah, Zer., Ber. I, 2.

The continued references in the sūra, identify the contemporary Qur'ān situation. The post-Mosaic Jews had demanded /

demanded a king. When presented with Saul, they rejected him and argued that they had a greater right to kingship than one who had not been given wealth. Their prophet admonished the Jews, by stating that God grants authority to whom He chooses.<sup>1</sup> Abraham had similarly been resented. Indeed, rejection by the Jews is one of the marks of prophethood. The sūra closes with a reaffirmation that Muḥammad is indeed a prophet, and the repetition of the refusal of the Muslims to distinguish one prophet from another, together with a declaration before God that, having heard they will obey, to which is added a prayer that God will not load upon their backs a burden such as that He had laid upon their predecessors.<sup>2</sup> Part of that load had of course, been previously relieved, even before the coming of Muḥammad. Christ had also come, informing the Jews that he confirmed what had preceded him in the Torah, but, declaring lawful part of what had been forbidden them.<sup>3</sup> Muḥammad likewise, was instructed to declare that the food that was lawful for the Muslims, was lawful also for the Jews.<sup>4</sup> He had been sent by God to elucidate much that the Jews had hitherto concealed, but, likewise, to relieve much of what had been in the Law.<sup>5</sup> The Qur'ān informs the Jews on most matters on which they were divided.<sup>6</sup> There had been a Jewish qibla established by Moses /

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1. v.247.

2. v.286.

3. Q.III,50.

4. Q.V.5.

5. Q.V.15.

6. Q.XXVII,76.

Moses and Aaron in Egypt, before the Israelites had even reached the Holy Land, let alone founded Jerusalem!<sup>1</sup> There was thus, no lack of instances of changes in the Law, throughout the course of the historical prophethood. The chief function of the practical Law was to distinguish between those who were genuine in their belief, and those who were convinced only at a superficial level, or merely for reasons of self-interest. Another function of the Law is the display of the divine displeasure: "In requital of evil committed by the Jews, We declared unlawful to them certain pure things that had previously been lawful for them. For continued preventing men from the path of God, and for their accepting usury, although forbidden to do so, and for their usurpation of men's property, without grounds."<sup>2</sup> Because of Cain's homicide, God had imposed upon B. ʾIsrāʾīl the principle that he who kills, other than in the exercise of the talio, or for social retribution, is as if he had killed the entire race.<sup>3</sup> "We declared unlawful to the Jews all hooved animals, and of cattle and sheep, We forbade the fat, apart from the fat of the back, or the entrails, or fat attached to bone. This We imposed, in punishment of their law-breaking."<sup>4</sup> "In declaring unlawful to the Jews those things /

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1. Q.X, 87.

2. Q.IV, 160-1.

3. Q.V, 32.

4. Q.VI, 146.

things We have mentioned, We did them no wrong, they it was who wronged themselves."<sup>1</sup>

In addition to some of these divine declarations, parts of the Jewish dietary laws had been self-imposed: "All foods were lawful to B. ʾIsrāʾīl apart from those things which ʾIsrāʾīl had denied himself, before the Torah was revealed."<sup>2</sup> These, and other regulations, divinely enacted, or self-imposed, can be set aside by God, as a mercy, to those who believe in and accept his most recent prophet. "Those who obey the gentile prophet and law giver, whom they find mentioned in their Torah and in their Gospel, who commands generosity, and forbids meanness, declares lawful to them all pure things, and declares unlawful to them all polluted things, who relieves them of their burden, and of the shackles that had been laid upon them."<sup>3</sup>

There is no room for doubt that the Qurʾān, and hence, Muḥammad, held a doctrine of external abrogation: that Islam, the latest revelation, sets aside certain of the social and ritual laws of the preceding systems. The very logic of the claim to prophethood requires that it must be so.

The /

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1. Q.XVI, 118.

2. Q.III, 93.

3. Q.VII, 157.

The post-Muhammedan science of 'al nāsikh wa al mansūkh' is concerned, however, not primarily with external, but with internal abrogation - the allegation that within the body of documents that have come down to us from the age of the revelation to Muḥammad, are occasionally to be found statements, either within the confines of the Qur'ān alone, or within the Sunna alone, or, as between the one and the other, which are incapable of reconciliation, and hence, of simultaneous implementation. In the light of the general theory of internal abrogation, justified on the analogy of external abrogation, the scholars would maintain that one of the Islamic statements abrogated the other, being later than it. In such discussions, most statements on dating are, as we have seen, mere assertion. Where both statements were Qur'ān's the theory alleged the abrogation of the Qur'ān by the Qur'ān, appealing for 'proof' to certain verses of the Qur'ān itself. If both statements were Sunnas, the abrogation of the Sunna by the Sunna was alleged. Apart from Shāfi'ī, and some of his followers, the scholars also argued the possibility of the abrogation of the Sunna by the Qur'ān, and of the Qur'ān by the Sunna. Central to all these arguments was the alleged revealed sanction of these principles in Q II 106.

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| 1. mā nansakh min āyatin ʿaw nunsihā.                  | ʿUthmān.                           |
| 2. mā nansakh min āyatin ʿaw nunsikahā.                | Ḥudhaifa. <sup>1</sup>             |
| 3. mā nunsika min āyatin ʿaw nansakh hā.               | ʿAbdallāh b. Masʿūd. <sup>2</sup>  |
| 4. mā nansakh min āyatin ʿaw nansa hā.                 | ʿAbdallāh b. ʿAbbās. <sup>3</sup>  |
| 5. mā nansakh min āyatin ʿaw tansa hā.                 | Saʿd b. ʿAbī Waqqāṣ. <sup>4</sup>  |
| 6. mā nansakh min āyatin ʿaw tunsa hā.                 | Saʿīd b. al Musayyab. <sup>5</sup> |
| 7. mā nansakh min āyatin ʿaw nansaʾ hā.                | ʿAbū ʿAmr. <sup>6</sup>            |
| 8. mā nunsikh min āyatin ʿaw nunsī hā.                 | ʿAbdallāh b. ʿĀmir. <sup>7</sup>   |
| 9. mā nansakh min āyatin ʿaw nunassi hā.               | Abū Rajāʾ. <sup>8</sup>            |
| 10. mā nansakh min āyatin wa nunsī hā.                 | ʿAlī b. ʿAbī Ṭālib. <sup>9</sup>   |
| 11. mā nansakh min āyatin ʿaw nunsīʾ hā. <sup>11</sup> | al Baḥr al Muḥīt. <sup>10</sup>    |

These /

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1. Jeffery, Materials, cf. p.233.
  2. ibid. p.27.
  3. vide infra p. 368.
  4. vide infra p. 366.
  5. Jeffery, op.cit. p.246.
  6. ibid. p.276; p.285; p.119.
  7. Baiḍawī, ad.loc. cf. Ṭab. II, p.487.
  8. ibn Khālawaiḥī, Mukht. p.9.
  9. Jeffery, op.cit. p.185. but cf. p.119 for ʿUbayy's 'reading'.
  10. ad.loc.
  11. A further reading nansū hā (ʿAbū ʿUbaida, Majāz, p.49) is too obscure to discuss.

These readings can be classified as under:

a. Hamza readings

nansa°	nunsi°	tansa°	tunsa°
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b. non-Hamza

nansa	nunsi nunassi	tansa	tunsa
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c. Single accusative

nansa hā	nunsi hā nunassi hā nunsika	tansa hā	tunsa hā
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d. Double accusative

nunsika hā

e. 'variant' for nansakh

nunsikh

The reading tunsi° in Hamza seems not to be attested. This table of 'readings' adequately demonstrates the extent and the profundity of the disagreements prevailing between the factions, and records matters of even greater moment than might appear.<sup>1</sup>

Ṭabarī's /

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1. Faḍlul Raḥmān, op.cit. p.41. "Indeed it is quite true to say that whatever views Muslims have wanted to project and advocate have taken the form of Qur'ānic commentaries." In addition to "commentaries" understand also "readings".



Ṭabarī's discussion of Q.II,106

Ṭabarī's discussion of the verse falls into three natural sections: the 'mā nansakh' clause; the 'ʿaw nunsī hā' clause, and the 'naʿti bi khairin min hā ʿaw mithlihā' clause. The mere presence in the āya of this last clause, (and as the apodosis of a condition) ought prima facie, to preclude any interpretation based on equating 'naskh' with 'replacement'.

We derive two important pieces of historical information as soon as we turn to Ṭabarī's study. The first of these is that the scholar came to his consideration of the verse, at a moment when the discussion of the relation between the source documents - the Qurʾān and the Sunna - and the conclusions of the legal sciences had reached a state of advanced complexity; the second is that certain of the rationalisations represented in the abrogation theories had encountered powerful resistance. Ṭabarī's discussion is seen to be defensive in tone, hence apologetic in purpose. One is immediately struck by the disproportionate brevity of the space he allots to the discussion of the first section. One might be prompted to take this as an indication that there had always obtained reasonable unanimity on the reading and the interpretation of this clause. But we have just seen that such appearances are misleading, masking the considerable variety of views on the meaning of the term 'naskh' and its origin in the language, a variety which only widens the further we /

we proceed in the consideration of the implications involved in the differing meanings and etymologies which have been proposed. Ṭabarī's discussion is of assistance in relating certain of these views to the perspective of their progressive consideration.

Ṭabarī's view of the semantic burden of the term 'naskh'.

"The meaning of God's expression: mā nansakh min āyatin: is, 'whatsoever regulation, derived from a verse, We transfer<sup>1</sup> to another regulation, such that We replace it,<sup>2</sup> alter it'<sup>3</sup>.... This means that He changes<sup>4</sup> the lawful into unlawful and the unlawful into lawful; the legally indifferent into proscribed and the proscribed into the legally indifferent. Such alteration can occur only in commands and prohibitions, in proscriptions and in declarations of absence of legal regulation; in forbidding actions and in declaring them to be legally indifferent. As for statements - (non-imperatives) - there can be, in relation to them, neither nāsikh nor mansūkh."

The reading: Ṭabarī recognises only one reading: mā nansakh. This he relates to the root: 'Nasakha yansakhu naskhan', the noun of which, he says, is 'nuskha'. The 'variant' reading: nunsikh: /

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1. nanqul.
  2. nubaddil.
  3. nughayyir.
  4. yuḥawwil.

nunsikh: he rejects as quite simply an error.<sup>1</sup> The origin of the term 'naskh' is, he says, "nasakha al kitāba": which means transferring<sup>2</sup> it from one 'nuskha' to another. Such too, is the meaning of the naskh of the regulation (sic) to another regulation, which merely means God's removing<sup>3</sup> it, and transferring<sup>2</sup> it, - sc. His utterance concerning it, to another utterance. Since such then is the meaning of the naskh of the āya (sic) then, when once the regulation expressed by the āya has been in this manner transferred and altered, and the obligation arising out of the original āya has been replaced - the duty of the faithful having been re-directed from that which had been originally imposed upon them by the content of the original āya - it is immaterial whether the wording of the original āya is endorsed and left to stand undisturbed in the text<sup>4</sup> or whether all trace of it is expunged, effaced and forgotten,<sup>5</sup> since, in both cases, the āya is mansūkh, and the new regulation, which replaces the original regulation, and to which now the obligation imposed /

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1. Taf., II, p.487.

2. naqluhu.

3. tahwīluhu.

4. i.e. naskh al ḥukm dūna al tilāwa - the 'classic mode' of naskh.

5. i.e. naskh al ḥukm wa al tilāwa - a mode not covered by his etymology!

imposed upon the faithful is transferred, is the *nāsikh*.<sup>1</sup>

It will be evident that Ṭabarī, in the mufassir's task, is here faced with appalling difficulties in the reconciliation, with this single verse, of the multiple strands of the highly complex contemporary theory of 'naskh' and it is our task to disentangle the individual elements from his ingenious skein of argument.

Ṭabarī's apparatus of 'tradition-proofs':

"al-Ḥasan al Baṣrī's doctrine was similar to ours. He commented: 'mā nansakh min āyatin ʿaw nunsī hā naʿti bi khairin min hā ʿaw mithli hā': 'Your prophet would be instructed in the recitation of a qurʿān and would subsequently forget it,<sup>2</sup> and it would be of no effect. There are also parts of the Qurʿān which have been abrogated, but which you still recite.' "

If this is the same as Ṭabarī's doctrine, then he accepts two categories of naskh: naskh al ḥukm wa al tilāwa; and naskh al ḥukm dūna al tilāwa.

Of /

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1. Baghdādī, MS. Pet. 555: "The doctrine of those who say that naskh is the turning someone from one rite to another is erroneous. Abrogation need not imply replacement - it could be simply withdrawal."

2. ʿuqriʿ a qurʿān thumma nasiya hu: for this wording, cf. Q.LXXXVII, 6-7.

Of the two modes, however, Ḥasan accepted only one, the latter, i.e. the situation in which two verses of our Qurʾān text appear to clash. In addition to this, Ḥasan conceived of some parts of the Qurʾān as having been forgotten by the prophet. He however, says nothing about their having been replaced. There was thus, for Ḥasan, (d. 110) only one Qurʾānic phenomenon material to our enquiry - conflict of sources, as indicated by the presence in the Qurʾān of matter that had been abrogated. Ḥasan's view on the forgetting of the Qurʾān by Muḥammad would appear to have been based not upon any report that such had occurred, but rather upon one exegesis of a verse of the Qurʾān itself.<sup>1</sup> His statement that the forgotten verse was of 'no effect' suggests further, that he conceived of verses having been forgotten before communication to Muḥammad's contemporaries. These verses had never come into force. The phenomenon as such, could therefore be entirely ignored as devoid of any practical consequences. It has no effect either upon our texts, nor upon our practice. The verses were as if they had never existed. For all practical purposes there is but one 'naskh' phenomenon.

Ṭabarī's apparatus of 'tafsīr-proofs':

"The interpretation (taʾwīl) scholars have disagreed about God's expression: mā nansakh: some say: 'mā nansakh min /

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1. ʾuqriʾ a qurʾān thumma nasiya hu: for this wording cf. Q.LXXXVII, 6-7.

min āyatīn: means: qabḍ, retract'. Others have said: 'mā nansakh means: whatever verse We replace'.<sup>1</sup> Yet others say: mā nansakh means: 'We reduce the verse to writing'<sup>2</sup> but We replace its regulation'.

Ṭabarī's etymological approach:

It is unnecessary to take Ṭabarī's approach as seriously and scientifically etymological since his explanation of the term 'naskh' is visibly arrived at only by straining the linguistic considerations in favour of the theoretical requirements of the time. His main concern has been to harmonise several independent lines of traditional tafsīr. There is first, the 'replacement' tafsīr, represented by the view ascribed to ibn ʿAbbās, itself a clear and unmistakable reference to Q.XVI,101; this can be supported by the three ḥadīths purporting to convey the views of the Companions of ʿAbdallāh b. Masʿūd. These last have their own points of interest, referring, as they do, to a 'reading' of this text at variance with that reading traditionally attributed to ʿAbdallāh. Two of the ḥadīths consist of two separate statements concerned, respectively, with the writing of the text of the Qurʾān, and with the replacement of one regulation by another. Each of the statements might thus, independently /

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1. nubaddil; cf. Q.XVI, 101.

2. rather, 'We endorse the written record'; nuthbit khaṭṭa hā wa nubaddil ḥukma hā. i.e. the 'classic mode': naskh al ḥukm dūna al tilāwa.

independently, serve as a definition of the term 'naskh' - the first, linguistic,<sup>1</sup> the other theoretical.<sup>2</sup> The ḥadīths must therefore, be regarded as representing some early, already harmonising tendency and thus as belonging to a secondary stage in the discussions on 'naskh'. They also reveal, more clearly than the ibn ʿAbbās statement, the allegation that there occurs conflict of rulings resulting in the survival in the Qurʾān of abrogated matter. It is further, by no means clear whether they, any more than the statement attributed to Ḥasan al Baṣrī, envisage theoretically the replacement of the mansūkh regulation as occurring external to the Qurʾānic text, or by means of a fresh revelation. They make no reference to the omission from our texts of Qurʾānic matter, once revealed. Their use of the term 'nubaddil' can again confidently be taken as direct allusion to Q.XVI, 101. The two-fold statement in two versions of this ḥadīth<sup>3</sup> is underlined by the single statement of the third version. There has been an inclination, on the part of the modern editor to regard this third version as 'incomplete'. He has therefore supplied, from the other two versions, the 'missing' words.<sup>4</sup> This is a dangerous interference /

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1. cf. the use of the root 'naskh' in the ḥadīths on ʿUthmān's initiative. cf. also Ṭabarī's proposed etymology: naskh = to copy.

2. i.e. naskh = tabdīl; taḥwīl; taghyīr.

3. Nos. 1748, 1749, loc.cit. p.473.

4. and from ibn Kathīr's tafsīr, I, pp.273-4.

interference with written records and might have done a disservice to scholarship, but that he fortunately informed the reader in a footnote of his action.

A more interesting procedure might have been to look upon the 'incomplete' version's present condition as indicating the possibility of interpolation in the other two, in the interests of harmony.

The second theory is the 'withdrawal' tafsīr which need not, apparently imply that a verse is withdrawn only after the regulation it embodied had been replaced. As we saw, earlier, it can more often in the tradition imply something quite different: sc. the withdrawal of both the verse and its ruling together. This seemed to be the view of al Ḥasan (or attributed to him). Ṭabarī however, interpreted both Ḥasan's words and the verse in quite another sense. For him, although not for Ḥasan, withdrawal of the words of a Qur'ānic āya was immaterial, once the replacement of its ruling had been ascertained, but might occur following the replacement of the ruling. The forgetting tafsīr, seen in both the ḥadīths we considered earlier, and now, in the Ḥasan opinion, was strenuously combatted and eventually eradicated from the theory, to be succeeded there by a mode of 'naskh' which made of the forgetting phenomenon, not a matter of ordinary human failure, but a divinely controlled instrument of abrogation. The contrary of the old forgetting theory is /



is never encountered in the tradition - namely the explicit assertion that the prophet never forgot a verse before communication, or that certain verses he had forgotten had never formed part of the Qur'ān. Yet, it may be suggested that the ḥadīth affecting to record the views of the Companions of 'Abdallāh, which tends to be regarded as 'incomplete', might represent, to some at least, the implication that once revealed, verses are invariably recorded in writing. This was an end that was otherwise served by the voluminous literature on the amanuenses of the prophet, which is opposed to the tendency of the widely reported ḥadīth ascribed to ibn 'Abbās to the effect that many a time the prophet had received revelations by night which he had forgotten by morning.<sup>1</sup> The thought of this had caused Muḥammad such mental anguish that it was necessary for God, in order to console His prophet,<sup>2</sup> to reveal Q.II,106. This ibn 'Abbās ḥadīth is of course, mere tafsīr-inspired 'asbāb al nuzūl, yet it reflects a disposition to accept (but simultaneously neutralise), the notion that Muḥammad could forget Qur'ān, and hence is again secondary to the discussion of the meaning of Q.LXXXVII,6-7. 'mā nansakh = nuthbit khaṭṭahā', i.e. 'whatever We record', derived from 'nasakha al kitāba', is opposed by the Suddī interpretation: mā nansakh /

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1. ibn Kathīr, loc.cit. p.150.

2. ibn Qutaiba, Mukht. p. 226 (refers to Q XXII, 52, but cf. Tafsīr al Manār on Q II 106.)

nansakh = qabḍ (withdraw) which argues the reverse of the other - i.e. withdraw from the record. ( vide supra p. 122 ).

Muḥammad's consolation would have lain in his realisation that the promise of replacement expressed in : naʿti bi khairin min hā ʿaw mithli hā, showed his forgetting to be of no account, which is not the same thing as the argument that what he is alleged to have forgotten had been of no account.

To the scholars a third possibility had, in the meantime, occurred - the replacement of the ruling of a verse, without however, the replacement in the Qurʾān of the wording of the superseded verse. This is also qabḍ - naskh al tilāwa dūna al ḥukm, as in the so-called 'stoning verse'.

Ṭabarī derived from the one term 'naskh' two concepts : the replacement of a regulation by a successor regulation with the resultant duplication of verses in the Qurʾān, if the replaced wording continued to be recorded alongside the wording which superseded it; and the presence in the Book of the wording of the substitute ruling alone, that of the now superseded ruling failing to survive. Ḥasan's doctrine, on the contrary, involved both replacement and forgetting, and had evolved from his consideration of two terms: nansakh and nunsī, which conveyed to him two discrete and mutually independent phenomena. Certainty that any particular Qurʾān ruling has been replaced and its replaced wording expunged from the record, unless it derive from clear and precise lexicography /

lexicography, can otherwise be acquired in one of only two ways : from a second unambiguous divine revelation that this had indeed occurred; or from traditions current in the community that such forgetting, erasing or expunging had, in fact, been seen undeniably to have occurred at some point, or points in the historical experience of the community.

Such traditions could have gained currency only in a community that conceded, in advance, the possibility of the forgetting, erasing or expunging of matter revealed by God.

Ṭabarī's discussion of 'naskh' is, therefore, not of a Qur'ānic, but of a non-Qur'ānic order. It starts out from a point not in the Qur'ān, not from Q II 106, not even from Q XVI 101, which, as we have seen, are each in turn explained in terms of the other, but from outside the Qur'ān, in the theories of the schools, addressed to the explanation of the conflict of sources. Ṭabarī's approach to the question of abrogation is, in short, not that of the exegete, but that of the faqīh. As such, he intervenes between the revealed texts and the community addressed in those texts, to impose upon, rather than derive from the texts, that exegesis demanded by the facts and the realities of the sharī'a. For our purposes the significant advance has been made in the theory as represented in Ṭabarī's reading into the single term 'naskh' of the two phenomena of abrogation and of omissions from the muṣḥaf /

muṣḥaf.

Ṭabarī's etymology :

Quite the most impressive feature of Ṭabarī's handling of the term 'naskh', as it occurs in Q II 106, was his tacit assumption of, yet complete failure, at this point, to mention the " 'izāla" etymology of the word, which is to be found in the literature, both before and after Ṭabarī's dates, and which, in the later literature, was to drive out completely Ṭabarī's preference for the 'transfer' etymology. A second remarkable aspect of his tafsīr is the violence of the assault he makes upon logic by forcing his concept of the 'copying' - 'naql' - which he ostensibly accepted as the root of the word 'naskh', into the mould of his preconceived ideas on the modes and operation of the 'naskh' phenomena. To achieve this, he relied on the patently artificial expedient of assigning the 'transfer' concept to the phenomenon of the 'transfer of the faithful' from the original regulation to its replacement. The flaw in this transfer etymology was not hidden from other Muslim scholars : "There is," says Tha'labī,<sup>1</sup> "the usage: nasakhtu al kitāba - but this sense of the meaning of 'nasakha' cannot be said to occur in the Qur'ān. The scholars objected to Naḥḥās' statement that it did, for it was their argument that, of course, the nāsikh in the /

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1. al Jawāhir al Ḥisān, Algiers, 1905, p. 95 ff.

the Qur'ān does not reproduce the exact wording of the mansūkh - it cannot be said in that sense to be a 'copy' of it."<sup>1</sup> The whole point and purpose in the elaboration of the various abrogation theories had been precisely to account for the occurrence, in the nāsikh, of a wording at variance with that in the mansūkh. Tha'labī makes the point more explicit:

"The term 'naskaha' in Arabic has two senses: the first of these, 'naql', as in: 'nasakha al kitāba min ākhara': cannot be introduced into the consideration of this Baqara verse. The second sense, 'izāla', is the meaning here."

But, already long before the birth of Ṭabarī, the first of the great Muslim lexicographers, al Khalīl (d.170) is reported<sup>2</sup> to have defined 'naskh' in his celebrated lexicon, K. al 'Ain, as: /

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1. cf. Mekkī, op.cit. fol.1: "Naskh occurs in the speech of the Arabs in three senses; the first derived from the expression: nasakhtu al kitāba - i.e. I have carried what it contains over into another book. This in no way alters the original book, but merely gives rise to a copy like the first in both wording and meaning; both copies continue in existence. This sense has no connection with the term we are discussing, there being in the Qur'ān no verse which is the nāsikh of another of which it reproduces the sense and the wording."

2. Tūṣī, op.cit. I, p.393.

as: "izālatuka ʿamran kāna yuʿmalu bihi thumma tansakhuhu bi ḥādithin ghairihi ka al āya fi ʿamrin thumma yukhaffafu fa tansakhuhu bi ʿukhrā: Your suppression of a command which had been the basis of the practice; subsequently you replace it by a new and different command - as, for example, the āya concerning a command - the command is subsequently moderated and you replace it by means of another āya." The definition is evidence that, already in the middle of the second century, there had been completed a considerable process of thinking on these matters and that certain conclusions had been reached, in favour of which appeal was then made to a variety of Qurʾānic 'proof'-verses. The vocabulary of the definition itself betrays its debt to the legal schools - a command which had been the basis of the practice - and to the attempts to explain the current practice in Islamic terms. 'Naskh' had already attracted two definitions, not interchangeable - 'suppression' and 'replacement' - which are those same twin tafsīrs: 'withdrawal' and 'replacement' we met with a moment ago. There is, in the later use of the definition, no reference to 'copying' or to 'writing'.<sup>1</sup> The emphasis being rather on the practice, than on the Book, an āya is mentioned merely as an incidental vehicle for a ruling, not as the exclusive field of the operation of the phenomenon being defined. Yet certainly the word 'āya', in the definition, can /

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1. cf. M. Zeid, op.cit. I, p.55.

can only mean an āya of the Qurʾān. The third element in the definition - takhfīf - we have also met with already in Shāfiʿī's vocabulary. It shows a tendency to rationalise the doctrine, and is an obvious reference to Q VIII 66.

Khalīl's statement, which is more in the nature of a gloss than a definition of the term 'naskh', is certainly contradictory<sup>1</sup> and one is aware that what is being examined is no mere lexical item, but a term that already has behind it a history of service as a technical expression.

To Shāfiʿī it seemed natural to oppose the term 'ṣathbata'<sup>2</sup> to the terms : 'yamḥu'<sup>3</sup> 'ṣazāla'<sup>4</sup> and 'nasakha'.<sup>5</sup> He thus regarded the term 'naskh' as equivalent to 'suppress'.

That the word really conveyed to Shāfiʿī something less than 'replace' emerges from his dictum,<sup>5</sup> 'no duty is ever mansūkh without another being promulgated in its stead'. Nor is it without interest to note that Shāfiʿī, who at this point in his Risālah, evinces no interest in a hypothetical proto-Qurʾān<sup>6</sup> but is solely concerned with that which has survived, speaks /

1. If 'naskh' = 'ṣizāla', suppression, it cannot simultaneously mean 'tabdīl' - replacement.

2. Ris. pp. 16-17.

3. ibid. p. 17.

4. ibid. p. 18.

5. ibid. p. 17.

6. Shāfiʿī is uninterested in 'naskh al ḥukm wa al tilāwa', only once interested in 'naskh al tilāwa dūna al ḥukm'. The Khalīl definition reflects Shāfiʿī's primary concern - naskh al ḥukm dūna al tilāwa. The key to the Khalīl, Shāfiʿī and Ṭabarī definitions, is 'tabdīl' - substitution.

speaks of the 'naskh' of the obligation, or the 'naskh' of the ḥukm, just as above, we underlined Ṭabarī's immediate departure from the Qur'ānic text: mā nansakh min āyatin: to his own wording: mā nanqul min ḥukm āyatin: This was the automatic reflex stimulated in these scholars by the wording of Q.II,106, given their settled view of the technical meaning of the term 'naskh'.

When, however, Ṭabarī states that it is immaterial, given 'naskh', whether the original wording is allowed to stand in the text<sup>1</sup> or whether all trace of it is erased, expunged or forgotten, he offers no linguistic justification for the assertion, but seeks rather to give the impression that such a conclusion follows naturally from rational consideration of the phenomena of abrogation, if not directly from the inherent semantic implication of the word 'naskh' itself. He has in fact, by so arguing, both identified for us his immediate problem and in the same breath, contradicted his own etymology. For Ṭabarī's difficulty is precisely that the very words of this verse challenge his tafsīr of the verse. Consequently, what he must mean is: given that 'naskh' occurs, in the sense that the ruling is replaced, yet the wording of the replaced ruling survives in the Qur'ān texts /

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1. Ṭabarī has here narrowed down his problem to the co-existence in the Qur'ān of two or more conflicting verses, which was a truism for Shāfi'ī.



texts to figure alongside the wording of the substitute verse,<sup>1</sup> this is no different from those reported instances of the occurrence of the 'naskh' phenomenon in which the wording of the replaced ruling has failed to survive.<sup>2</sup> In both instances, the earlier verse is mansūkh. This is thus, not a linguistic but a polemic assertion, designed to impose upon the Qur'ān texts what cannot be derived from those texts - sc. the view that, in addition to the doctrine long generally accepted - (that Qur'ān support does exist for the argument that, in certain cases, the acknowledged ruling is the later of a pair of regulations) - there are also to be found in the Qur'ān duplicated statements on one and the same topic, but stating more than a single regulation. This is the view that was allegedly similar to that attributed to al Ḥasan.<sup>3</sup>

But it had apparently long been the view of the fuqahā' and the 'uṣūlīs. It was certainly the view of Shāfi'ī. We deduce therefore, that there had been a reaction from certain quarters, concerned about the implications of this view for the emerging Qur'ān doctrine. In addition to his 'transfer' etymology, which he reinforced by his appeal to ibn 'Abbās and /

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1. i.e. naskh al ḥukm dūna al tilāwa.

2. i.e. naskh al ḥukm wa al tilāwa.

3. vide supra p. 335.

and to the Companions of ʿAbdallāh, Ṭabarī accepted also, although in a significantly modified form, because now linked to abrogation, the notion of the removal of Qurʾānic matter by forgetting.

Considerably more significant, however, must be our observation that he then employed this principle as the base upon which to construct his qiyās that, if that be admitted, then it is also possible that the ruling alone of one verse may have been abrogated by the ruling of a later revelation, even where both verses survive in our texts of the Qurʾān. Ṭabarī is thus arguing simultaneously for two doctrines : that once the ruling has been replaced, the original wording may well be expunged, erased or forgotten; or, that it may equally well remain part of the Qurʾān document - but in both cases, the verse is 'mansūkh'. The first of these statements is purely hypothetical, no 'evidence' having been adduced to support its alleged historical occurrence. This is to be explained by its being merely a derivative of one of the etymologies proposed in Islam, (yet not at this point by Ṭabarī) for the term 'naskh' - ʿizāla; removal; withdrawal, which is now passing beyond its original reference to the ruling, to apply to the wording. What the ḥadīths adduced in the name of al Ḥasan, ibn ʿAbbās and the Kūfāns are meant to induce is acquiescence in a doctrine Ṭabarī is the more concerned /

concerned to sustain and which has clearly been attacked, the doctrine that is, that the Qur'ān contains inoperative verses, verses whose rulings have been ignored, on the plea that their rulings had been abrogated. The ḥadīth we considered earlier, projected the attack on this view back to the very moment when 'Uthmān had been engaged in collecting the verses into the Qur'ān. Why, he was asked, had he included Q.II,240, in the promulgated texts, when he knew its ruling to have been abrogated (replaced) by that of Q.II,234. 'Uthmān had included it because he knew the wording to have survived, having heard the wording continue to be recited by the prophet. It was thus endorsed as part of the texts to be preserved. It was in one sense mansūkh (replaced), in another sense it was not mansūkh, (withdrawn, suppressed). In a third sense it was mansūkh - copied out into the muṣḥaf, reduced to writing. Ṭabarī's argument is that a verse whose ruling had been replaced is as good as withdrawn. This he maintains on ostensibly logical grounds. He offers no linguistic justification, nor evidence of an historical nature from the Tradition - the only traditional lore he employs in this phase of his discussion, being tafsīr-ḥadīths, and those are mutually contradictory. One gathers that by the end of the third century, whereas there may have been achieved a tolerable agreement on the general argument in favour of abrogation within the Tradition, there yet remained powerful resistance to the notion that so far as /

as the Qur'ān text was concerned, 'naskh' could be conceived of as having occurred by other than simple suppression of replaced matter. The Muslims could apparently be persuaded that there were instances where the wording of both the nāsikh and the mansūkh sources appear simultaneously in the inherited Tradition - i.e. the Qur'ān and the Sunna, using the word Tradition in its widest sense. But seemingly powerful resistance had been expressed to the notion that this could be true of the Qur'ān alone, the miraculous Book of God. The sunnas in circulation were only such as successfully or unsuccessfully had attempted to modify the doctrine. Surviving, yet inoperative sunnas recognised as 'sound' could easily be rationalised by alleging abrogation, following consideration of their relative dates of supposed origin, or the relative dates of the conversion of their respective musnads. Non-surviving inoperative sunnas would simply not exist in the canon and hence, the 'naskh al hukm wa al tilāwa' mode of abrogation had never been required to be predicated of any element of the Sunna. The developing Qur'ān doctrine had, however, imposed this distinction between the Book and the Sunna: that, of the two source elements, only the Qur'ān had to be reckoned with as both source and document, and the claim made on its behalf that it was the mutawātir record of a revealed book of immediate divine authorship, inimitable alike in both ruling and wording /

wording, imposed upon the scholarship implications which provoked delicate questions that did not arise in the handling of the Sunna, but which demanded to be faced in all attempts to define one's terminology in the Qur'ān sphere. One sunna, for instance, may be held to abrogate another sunna, since the prophet, their source, being human, may change his mind, or have a change of heart. Abrogation in such a context may satisfactorily be defined as 'replacement' or 'substitution'. One must, however, be immeasurably more circumspect in the use of words and concepts when speaking of the divine Law-giver. It is obvious that resistance must be expected to any admission that the revealed Book should continue to contain both nāsikh and mansūkh, thus providing evidence of its own internal conflict. Ṭabarī argues that the Qur'ān's mansūkh verses are as good as withdrawn. The harsh reality persists that they have not been withdrawn. This realisation has been the source of considerable disquiet and anxiety. Can a document containing unmistakable contradictions be held to be a true record of what was of divine origin? Can the divine knowledge be held capable of development, the divine will of alteration? The vocabulary of Muslim scholarship is certainly permeated with avowed references to 'duplication' - Ṭabarī's etymology - 'nasakha', deriving from 'nasakha al kitāba' ('copy'); 'naql', 'tahwīl', 'tabdīl', this last derived from the Qur'ān itself, and /

and suggestive of 'duplication', (in replacement there being necessarily a 'mubdal' and a 'mubdal minhu') is representative, and was shared by Shāfi'ī before him, whose 'ta'mīm/takhṣīṣ'; 'farḍ/naskh (tabdīl)'; 'mujmal/mufassar'; 'muṭlaq/muqayyad', necessarily implied duplication of sources.

One technique of use in the resolution of these problems, adopted by Shāfi'ī and followed by Ṭabarī and later scholars, was to distinguish two types of revealed utterance - the imperative, and the non-imperative - restricting the operation of 'naskh', where defined as tabdīl (replacement), exclusively to the first. One is then free, where faced with statements implying the 'naskh' of utterances apparently non-imperative, to re-interpret these in the sense of simple 'withdrawal'.

From Ṭabarī we thus learn that there had arisen tension between two originally independent traditions: represented respectively in the 'withdrawal school' and the 'replacement school', each of which was ultimately based upon a different abstract view of the prophet-figure. Needless to say both views cannot be based simultaneously upon this single Qur'ānic term. If al Ḥaṣan al Baṣrī's reported comments be representative of a pre-Ṭabarī outlook, they offered views of two entirely separate and independent phenomena, each dependent for its documentation upon independent and separate utterances in the revelation. The two phenomena were: the loss of Qur'ānic material by reason of Muḥammad's forgetting; /

forgetting; and the co-existence in the Tradition of two or more statements, (one at least of which was in the Qur'ān) both dealing with one and the same topic. In Khalīl's definition of the term 'naskh' the adjustment of the tension was already under way : the suppression of a command which had been the basis of the practice; you subsequently replace it by a new and different command. This, and Ṭabarī's tafsīr are of the highest historical significance, preserving for us the clue to the mystery of how two originally separate alleged phenomena had been brought together into a theoretical unity within the discussions on sources, under the aegis of the conclusions reached in the technical discussions on abrogation. Removal of the wording of the verse after the replacement of the regulation it had embodied, is the purely hypothetical basis of a harmony effected between the two unrelated phenomena of the substitution of later for earlier rulings, and the forgetting of some parts of the Qur'ān such that they were not included in the promulgated texts. In the Qur'ānic field, this latter view cannot be accounted for otherwise than by regarding it as a derivative of the former developed precisely to counter the rejection of the principle of naskh al ḥukm dūna al tilāwa. As the Qur'ān doctrine emerged, the view had been expressed that inclusion in the Qur'ān document argued the continuing validity of the Qur'ān ruling. But, it was countered, this was not the case with e.g. Q II 240 whose mere inclusion in the texts had never been /

been employed to argue the continuing validity of its ruling. Abandonment of a Qur'ān ruling did not imply automatic exclusion of its Qur'ān wording.

A further protest had been raised. Exclusion from our Qur'ān texts necessarily implies abandonment of the ruling. The by now familiar confusion of etymologies rendered Ṭabarī incapable of understanding this argument. In his discussion of Q II 106, historical ḥadīths offering evidence of the loss of Qur'ānic matter do not make their appearance until he turns in his later discussion to the hotly debated question whether the prophet could have forgotten any of the Qur'ān. The reason for their introduction at that point, is Ṭabarī's need of 'ḥujja' materials to counter the arguments of those who would deny that it is conceivable that any part of the Qur'ān which had not been 'nasakhed' could have been forgotten. The importance of this discussion is that the old 'withdrawal' tafsīr was making difficulties, and we now learn how it was formalised. One is hardly prepared to meet Ṭabarī in the role of its champion and there is useful historical information to be derived from the reflection that his failure in that role suggests that Ṭabarī did not quite see the significance of the objections, nor that the withdrawal tafsīr is incompatible with his 'transfer' etymology.

The prophet, his opponents conceded,<sup>1</sup> might be held capable /

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1. Taf. V p. 479.



capable of forgetting part of the Qur'ān by reason of mere human inadvertence, but only on one of two significant conditions: that such forgetting was merely momentary and did not persist. To believe otherwise would be to canvass the view that the divine purpose in the revelation might be frustrated by human frailties and imperfections. Therefore anything Muḥammad may have forgotten in this wise, he must immediately have recalled. If unable to recall by his own powers, it is not to be supposed that those among the Companions who recited the Book and had it by heart, could all simultaneously forget the same passage. This is the doctrine, familiar from the ḥadīth, that Muḥammad's humanity is irrelevant to his mission. The opponents are arguing vehemently against the view that there exists a Qur'ān out-with the Qur'ān - anything omitted from the muṣḥaf is matrūk al 'amal. One is also minded to see in this attitude a defensive riposte to the objection that a person who forgets revelations cannot be regarded as the prophet his followers allege him to have been. Without Islam, the question would concern the claims urged by the Muslims on behalf of Muḥammad, or rather, on behalf of the Qur'ān; within Islam, the completeness of the Qur'ān text. In the abstraction of the discussions, the personalities of Muḥammad and the Companions, have become shrunken to the properties of mere mechanical vehicles of the revelation; the revelation is all, and if the prophet, having communicated, forget any part /

part of the Qur'ān, the Companions provide the second line of defence in its preservation and transmission to posterity. The entirety of the valid Qur'ān is thus under constant divine guarantee.<sup>1</sup> Whatever had been revealed must have been communicated; whatever had been communicated, must have been transmitted in the Qur'ān - unless it had been abrogated. This view of the rôle of the Companions has an ancient pre-Shāfi'ī ring about it and may well be anterior to the view that the prophet could forget no part of the Qur'ān, which is a derivative of the development of the theory of prophecy, already far advanced in Shāfi'ī's day. The opponents have made, as we see, an important qualification: Muḥammad could not have forgotten any of the Qur'ān unless it had been abrogated. This may represent the assertion that nothing that had once been revealed had been left out of the maṣāḥif that have come down to us. It could also mean that the fact of something's having been omitted suggested that it had been deliberately withdrawn. They quote, in support of their argument: Q.XVII,89: 'If We wished, We would remove that which We have revealed to you': interpreting it to mean: that God did not cause His prophet to forget any of the revelation (ʿilm) that He had granted him. The word ʿilm leaves aside any insistence that we are here concerned solely with imperative statements. Ṭabarī has little difficulty in exposing the unsoundness of this doctrinal tafsīr, in the light of the cumulative /

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1. cf. Q.XV,9.

evidence of reports about the prophet and the Companions. He quotes a historical ḥadīth about the withdrawal (rafʿ) of the revelation describing the rewards of the Bīr Maʿūna martyrs; and another, on the withdrawal of the celebrated ibn Ādam verse.

From this historical information, he concluded that it represents material whose withdrawal was too notorious to be denied. That they were ever replaced is nowhere ever stated by Ṭabarī. Presumably he implies that the method of their withdrawal was by their being forgotten, which would sufficiently explain their omission from the collected Qurʾān. "There is," he says, "great store of such historical evidence that could be adduced to the refutation of these folk, only its quotation would take up too much space."

The interest of this debate is that it shows us Ṭabarī using the term 'naskh' in the sense of simply to replace and distinguishing from that phenomenon another consisting of simple withdrawal. "It cannot," he continues, "be held absurd by anyone equipped with a) sound mental resources (ʿaql), and b) valid historical evidence (naql) that God should cause His prophet to forget part of what He had revealed to him; and, whereas it is not absurd, on the basis of either of these two sources of knowledge, it is impermissible for anyone to persist in the view that it is absurd. The verse which they employ in support of their fallacy /

fallacy does not inform us that God will not remove part of what He has revealed, but announces that, were He so to desire, He would remove all of it, which, praise God, He has not done." Having, to his own satisfaction, demolished the sophistries of the opponents, Ṭabarī now proceeds to the elaboration of his own:

"What the verse does announce is that God merely removes that part of His revelation of which His creatures stand in no need. This means that that part of the revelation that has been 'nasakhed' is not required by Mankind, and may therefore be removed. God has said, "We shall instruct you in the reciting it, and you will not forget, save only what God wills." (Q.LXXXVII,6-7). This means that God will cause His prophet to forget that which it pleases Him to do so. That which has disappeared (dhahaba) from the original revelation, is that which God here expresses by His use of the exceptive." This must mean that, for Ṭabarī, there are two classes of removed Qur'ān matter:

- a. Bi'r Ma'ūna and ibn Ādam - removed, therefore inessential; and
- b. certain mansūkh verses - inessential and therefore removed.

His opponents had conceded that matter already mansūkh (replaced) might be forgotten; what they were evidently not prepared to accept was the view that forgetting may itself be an instrument, as opposed to merely a consequence of 'naskh'.

By treating the two classes of removed matter as separate, Ṭabarī is certainly suggesting that there are two distinct modes of removal: the emerging 'naskh al ḥukm wa al tilāwa', which was the origin of his analogically derived 'naskh al ḥukm dūna al tilāwa'. The first of these two was for him, either a subordinate element arising consequentially out of the replacement of the ḥukm, or additionally, a second distinct mode of removal, occurring independently of replacement and too well documented in the tradition to be denied. This his opponents would simply have called 'forgetting' and they would roundly deny its possibility. Ṭabarī failed to fit this phenomenon into his system, and was clearly embarrassed by its presence in the Tradition. He would hesitate to call it 'naskh', since no 'transfer' is seen to occur, but prefers, instead, the term 'raf'.

Ṭabarī therefore treats of three Qur'ānic phenomena: naskh al ḥukm dūna al tilāwa; naskh al ḥukm wa al tilāwa; and raf'.

Of these three, the last two have this in common: that in each case, some part of the original Qur'ān has been removed, the mode of its removal is by forgetting, but this forgetting occurs in strict accordance with the divine will and purpose to make the prophet's and the Companions' forgetting the instrument of the withdrawal. His difficulty with raf' is that it derives from the Ḥadīth, and cannot be fitted to his reading of either Q.II,106, or Q.XVI,101. A further complication /

plication is that raf' concerns wording. There being no ḥukm involvement, it cannot be accounted for on the grounds of 'transfer'. To that extent, it remained outside his theory of 'naskh'.. What must not be overlooked is Ṭabarī's isolating v.106 from its textual environment in its sūra, and his discussing it in vacuo.

Misunderstanding the objections of the opponents, he makes no reference to the third mode of naskh: 'naskh al tilāwa dūna al ḥukm.'

The second Qur'ānic occurrence of the root 'nasakha':

This occurs at Q.XXII,52: "We have not sent before you any messenger, or prophet but that when he 'tamannā' the devil casts into his 'umnīya; then God nasakhs that which the devil casts, and confirms His āyas."

The syntactical arrangement of the verse, setting down, in clear opposition, one to the other, the action of the devil and the reaction of God, permits the scholar no latitude in defining this use of the word 'naskh'.<sup>1</sup> This may perhaps explain why so much of the exegetical work has fastened on to the term 'tamannā' instead. Ṭabarī, with no reference to any other Qur'ānic occurrence of the term 'naskh' defines it, here, as: 'removes' (yuḏhib); 'brings to nought' (yubṭil); or declares to be such. "There is no doubt that by āyas here, is meant the āyas of the revelation, and we therefore know that what the devil had insinuated into the revelations is precisely that which God declares that He has nasakhed from them, bringing it to nought; then He firmly establishes /

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1. cf. Mekkī: Bāb bayān al nuṣṣ 'alā jawāz al naskh lil Qur'ān: "Some have used this verse to "prove" the legitimacy of naskh as a Qur'ānic phenomenon. The verse merely indicates the naskh of what the devil desires to insinuate into the prophet's recitation. This does nothing to indicate naskh involving that which God reveals and commands. There is thus no "proof" here, to indicate the legitimacy of the naskh of that which is the truth in God's eyes."

establishes His own revelation by nasakhing the expressions insinuated by the Devil. The verse is therefore to be interpreted: 'We have not sent before you a messenger, or a prophet, but that when he recited the Book of God, or repeated it, or discoursed, or spoke, the Devil insinuated matter into the Book of God which he was publicly reciting, or repeating, or into his discourse or utterances, as he spoke, but God nasakhs that which the devil insinuates - i.e. God removes that which the devil casts on to the tongue of His prophet, and brings it to nought; 'and confirms His āyas', means: 'God purifies the āyas of His Book, ridding it of the vain falsehood which the devil had insinuated into the speech of His prophet.' "

That this definition differs so radically from his comments on Q.II,106 can only be due to deliberate conscious choice on the part of the author. The origin of this difference might perhaps have lain in the notion that what the devil had insinuated could, of course, for the Muslims, have carried no valid hukm. Shāfi'ī had defined 'naskh' as: taraka farḍahu...kāna haqqan fī waqtihi<sup>1</sup> ... which could clearly not be applied in this case. To have argued here, that 'naskh' meant 'transfer' would not only have conflicted with the two-stage wording of this verse, but would also have involved the psychologically unacceptable concept of God /

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1. Ris. p.20.



God and the devil as virtual partners in the process. The Q.XXII phenomenon must represent, to a Muslim, a phenomenon different in kind from that spoken of at Q.II,106. That it was so, is confirmed by a remark made by Nīsābūrī at the end of his comment on this verse: "this is the linguistic, as opposed to the legal use of the term 'naskh' - the latter being a technical term employed in reference to religio-legal principles,<sup>1</sup> a frank enough admission that 'naskh' cannot be traced to the Qur'ān! Thus, Ṭabarī's appeal, at Q.II,106, to exclusively linguistic considerations is, at one blow demolished. Similarly, Rāzī, although he insists on citing the Q.XXII verse, in proof of his etymology of the term 'naskh', nevertheless, refers only to Q.II,106, to Q.XVI and to Q.XIII, when his aim is to establish that Islamic 'naskh' has indeed, occurred.

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1. his Taf. ad loc.

Q.II,106: Ṭabarī's comment on: ʿaw nunsī hā.

Adequate confirmation of the intensity of the earlier debates within Islam, on the meaning of 'naskh', and, more especially, on its implications for the interpretation of historical data and for the theological theory, is afforded by a study of the extent of the disagreements on how to read and how to interpret this one clause, which is sufficiently reflected in the multiplicity of the 'readings' proposed and defended by the various groups. Ṭabarī discusses six 'readings' of this one verb:<sup>1</sup> The Medinese and the Kūfians read: ʿaw nunsī hā. This reading has two possible meanings: forgetting - Qatāda said: 'God used to 'naskh' one āya by a later āya: the prophet used to recite one or more āyas, which would subsequently be forgotten, and withdrawn.<sup>2</sup>

Qatāda also said: 'God used to cause His prophet to forget what He pleased; God used to 'naskh' what He pleased.'<sup>2</sup>

Mujāhid reported ʿUbaid b. ʿUmair as saying: 'nunsī hā means: We withdraw<sup>3</sup> it from your possession.'

'Forgetting' /

1. Taf.II,474.

2. If this is read in the passive, it is strongly reminiscent of Q.LXXXVII,6-7. The second statement attributed to Qatāda settles the matter.

3. raf°. i.e. cause it to be forgotten.

'Forgetting' was also the interpretation of Sa'd b. 'Abī Waqqāṣ, but his reading was: 'aw tansa hā.

al Qāsim heard Sa'd b. 'Abī Waqqāṣ say:<sup>1</sup> 'aw tansa hā, and pointed out that Sa'īd b. al Musayyab read: 'aw tansa hā. Sa'd replied: The Qur'ān was not revealed to Musayyab, nor to his family! God says: sa nuqri'uka fa lā tansaa<sup>2</sup> and: udhkur rabbak 'idhā nasīta.

The general 'forgetting' tafsīr had clearly preceded all these 'readings' and consideration of parallel Qur'ān contexts had seemed to lend support to the 'reading' advocated. The variations between one 'reading' and another, as to details of grammatical person, or voice, depend upon and represent corresponding differences in the details of the theological possibilities worked out in the rival school of opinion. The Sa'd b. 'Abī Waqqāṣ - Sa'īd b. al Musayyab ḥadīth enables us to see very clearly how the theological considerations had preceded the adoption of the particular school-reading, which it was then the business of the scholars to vindicate, and to /

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1. Curiously, yaqūl rather than yaqra'.

2. This quotation is meaningless until one realises that the reference is to the words: 'illā mā shā'allāh. Sa'd believed Muḥammad capable of forgetting Qur'ān since he read the exceptive as an affirmation. Here, a tafsīr is being imposed upon a reading. Goldziher overlooked the subtlety of the active/passive alternatives. Sa'd's reference to Q.LXXXVII demands a second person reading for both Sa'd and Sa'īd. (vide: Richtungen, p.24). These can therefore be distinguished solely on the basis of voice.

to seek to impose upon others.<sup>1</sup> What the various 'readings' for the most part normally show, is only the end-result of the disputes; the detailed documentation of the step-by-step argumentation leading up to the adoption of this or that reading is seldom so clear as here, and usually has to be ferreted out from the ḥadīth and the 'variant' readings pre-supposed there.

The reading: ʿaw nunsī hā is also adopted by some, who, however, maintain that the meaning of the root is not 'forgetting', but, neglecting, relinquishing, leaving, from: ʿansā yunsī = taraka. This meaning was arrived at by consideration of Q.IX,67: "nasu allāh fa nasiya hum": which means: "they have abandoned God, and He has abandoned them." On this basis, the interpretation of ʿaw nunsī hā is: "Whatsoever verse We naskh, (altering its ḥukm, and replacing the obligation it embodied), We shall bring that which is better than that which We have nasakhed, or its like."<sup>2</sup> i.e. ʿaw nunsī-hā = We do not alter it, and can therefore be ignored!

ibn /

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1. There is also isnād critique. Saʿd attacks the connection (ittiṣāl) of the alleged Saʿīd reading, by impugning its rafʿ back to Muḥammad.
  2. i.e. the pronoun hā attached to both adjectives in the apodosis, i.e. [khair min hā ʿaw mithli hā] refers back to the object of only one verb in the protasis - sc. mā nansakh min āya.

- ibn ʿAbbas: ʿaw nansa<sup>1</sup> hā: We leave it, We do not alter it.  
 Suddī : ʿaw nunsī hā: We leave it, We do not naskh it.  
 Daḥḥāk : this verse refers to the nāsikh and the mansūkh.<sup>2</sup>  
 ʿAbdul Raḥmān b. Zeid's view was that: nunsī hā means: namhu hā, (sc. We expunge it. The reference is to Q.XIII,39).

The opinion attributed to Suddī gave rise to two interpretations, depending on whether one understood by his use of the word 'naskh' 'to copy' (sc. from the Heavenly Tablet) or 'to abrogate'.<sup>3</sup> On the last interpretation, it would agree with the view attributed to ibn ʿAbbās, which, having opted for the explanation of the root nasiya = leave, in order to avoid the theologically repugnant attribution of 'forgetting' to God,<sup>4</sup> was further obliged to re-arrange the syntax of Q.II,106 to read in such a way that the clause: ʿaw nansa hā: appears as a parenthesis, with the two objects in the apodosis: We shall bring one better than (it), or like (it), jointly referring back to the word 'verse' in: 'Whatsoever verse we alter'. A difficult expression has thus been merely set aside, while the logical absurdity of 'bringing one better' than that which one has not altered has /

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1. sic! But cf. Goldziher, Richtungen, loc.cit.

2. i.e. as an external phenomenon referred to by but not derived from this verse?

3. cf. Qurṭubī, II, pp.67-8.

4. cf. Goldziher, Richtungen, loc.cit.

has simultaneously been avoided.

The second interpretation of the Suddī: "We leave it, We do not naskh it": represents also a flight from the theologically repugnant attribution of 'forgetting' to God, by rendering the expression: 'We leave it', as a reference once more to the Heavenly Tablet: sc. 'We leave it in the Heavenly Tablet, and do not reveal it.' Both verbs of the apodosis must, in this reading, again, refer back to: 'Whatsoever verse We alter', as Ṭabarī has pointed out.

The Heavenly Tablet is in view again, in the 'Abdul Raḥmān reference to Q.XIII, and once more, theological considerations are apparent. Forgetting is avoided, and verses removed from the qur'ān's of the Muslims are removed from the Heavenly Tablet, so that the two documents, the earthly and the heavenly, remain in constant agreement. There is also in this view, a closer approximation between Q.II,106 and Q.XXII,52, with, however, the context environment of the latter being quite ignored.

A more determined effort to escape from the 'forgetting' tafsīr is represented by the second principal 'reading' of this verse: 'aw nansa' hā, from the Hamza root said to mean 'to defer':

"This was the reading<sup>1</sup> adopted by a group of the Companions /

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1. Ṭab.taf.II, p.477.

Companions, and some of the following generation: it was adopted also by some of the 'readers' of Kūfa and Baṣrah.

°Aṭā° said: nansa° hā means: nu°akhkhir hā.

°Eissa heard ibn °Abī Najīḥ say: nansa° hā means: nurji° hā.

Mujāhid said: nansa° hā means: nu°akhkhir hā wa nurji° hā.

It is difficult to reconcile these statements with what we have previously been told about the 'reading' and the tafsīr of the Kūfans; the present statements, attributed to the followers of ibn Mas°ūd,<sup>1</sup> illustrate the complexities of the attribution ḥadīths which are the very basis of this type of discussion in the literature.

The reading: °aw nansa° hā is generally ascribed also to °Abdallāh b. Kathīr and to °Abū °Amr b. al °Alā°; the reading normally ascribed to ibn Mas°ūd: mā nunsika: properly belongs to the 'forgetting' school. Ṭabarī gives °Abdallāh's 'reading' separately, and without further comment, under the 'forgetting' tafsīr attributions. The confusion may have been caused by rival groups claiming the same companion as the eponym of their rival views, both projecting back to him their own conclusions, as having been his.

The /

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1. °Abdallāh<sup>u</sup> was alleged to read nunsika. The accusative suffix guarantees the absence of hamza, unless one reads nunsika. Both Mujāhid and ibn °Abī Najīḥ figure both in this ḥadīth series, and in that on p.473. vide supra p.337.

The view ascribed to 'Aṭīyya<sup>1</sup> has the same ambiguity as that referred, above, to Suddī: 'aw nansa° hā means: nu°akhkhir-hā: We defer it and do not naskh it. i.e. either defer abrogating it, or defer copying it from the Heavenly Tablet.

Whichever may have been intended, (and Shāfi°ī prefers the latter of the two possibilities,<sup>2</sup>) we have here the startling situation in which two 'non-forgetting' interpretations coincide despite the founding of the verification of each, on the grounds of a different 'reading': nunsī hā - We do not naskh it; nansa° hā = We do not naskh it. There could be no clearer evidence that in such cases, the tafsīr is the prior, the 'reading' the posterior element in the scholarly process of seeking justification in the Qur°ān for the school theories elaborated at an earlier stage, without initial reference to the Qur°ān.

'Ubaid b. 'Umair said: nansa° hā means: 'irjā°uhā, ta°khīr. This is flatly contradictory to the earlier ḥadīth, in which 'Ubaid is said to have held that: nunsī hā: means: We withdraw it from your possession.<sup>3</sup> Ṭabarī further adduces evidence at this point<sup>4</sup> that 'Ubaid's 'reading' was in fact: 'aw /

1. Ṭab.ṭaf.II,p.477. Should this read 'Aṭā° ? cf. infra p. 387.

2. Ris. p.17. ta°khīr 'inzālihā.

3. vide supra, p.365, note 3. cf. infra p. 385.

4. p.478 top.



'aw nansa° hā. 'Ubaid's authority has therefore been borrowed for two differing readings, arising from two differing interpretations, which suggests that much of the documentation is quite spurious, and should be handled with the greatest caution.

The interpretation of the reading: 'aw nansa° hā.

"Whatsoever verse, having revealed it to you, Muḥammad, We replace, annulling its ḥukm, while endorsing the wording, or defer, (postpone), i.e. endorsing it, not altering it, but re-affirming it, not annulling its ḥukm, We shall bring one better than it, or one similar to it."

Of the two possible interpretations of the word: naskh: Ṭabarī has opted for the 'abrogation' meaning, importing however, this meaning, not from his own comment on mā nansakh in the present verse, but from Q.XVI,101 and Q.XXII,52, although 'endorsing the wording of the āya' could never apply to the latter. His final interpretation is nonsensical,<sup>1</sup> since /

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1. If nunsī/nansa° = we do not naskh, is intended as a reference to the co-existence of two allegedly conflicting verses in the Qur'ān texts, naskh itself is evidently something different: suppression? But if the co-existence of two allegedly conflicting verses in the Qur'ān texts is referred to as naskh then nunsī/nansa° refers to all verses on a topic which are unaccompanied by other verses on the same topic. Hence the apodosis must carry no back-reference to this particular clause.

since it would involve the replacement of the entire Qur'ān. It further implies the acceptance of only one mode of 'naskh', and is the type of tafsīr which points to that mode - naskh al ḥukm dūna al tilāwa - as the one sure, constant assertion in all the theorising. It is very odd and noteworthy that Ṭabarī makes no reference to Shāfi'ī's tafsīr of this reading: 'aw nansa' hā: and the ta'khīr etymology which accompanies it. This for Shāfi'ī meant: the deferring of the revelation of a verse, ta'khīr 'inzāli hā; but, as 'naskh' was, for him, a technical term, and thus mā nansakh meant not: Whatsoever verse We copy (sc. reveal), Shāfi'ī must have read: 'aw nansa': with an interpolation of the word 'naskh' which however, he did for the nonce interpret as: 'to copy'. sc. "Whatsoever verse We abrogate, or defer revealing (copying)."<sup>1</sup> The word 'naskh', as an interpolation in both interpretations of the phrase: 'aw nansa' [naskha] hā: thus means different things to different men, and in the case of Shāfi'ī different things to one man, in one and the same Qur'ānic sentence! We must therefore treat also the scholars' appeal to linguistics with the utmost reserve. Although the 'copy' etymology was the starting point of Ṭabarī's own comment: (cf. his statement that the noun derived from the root is 'nuskha' and that the origin of the term was 'nasakha al kitāba'), this is an /

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1. Ris. p.17 naskh al qur'ān wa ta'khīr 'inzālihi.

an etymology he nowhere further refers to. We now find him glossing the word 'naskh', not once, but twice<sup>1</sup> with the term 'nubṭil' - to nullify, borrowed from Q.XXII,52. The origin of his 'transfer' definition was not the word 'nasakha' as in 'nasakha al kitāba', but, the word 'naqala',<sup>2</sup> as in 'naqala al kitāba'. Unhappily, this word 'naqala' has another, related meaning - sc. 'transfer', as in: naqala zawjata hu min beitin ʿila ākhara - "he removed, or transferred his wife from one dwelling to another." One might recall Sijistānī's mention of 'transferring the bees and the honey from one hive to another.' The need to bring the Qurʾān texts into adjustment with the realities of the situation of the doctrine, much of which was clearly not based upon Qurʾān statements, - was often, indeed, in conflict with the Qurʾān statements, - led, when that stage had been reached, when the Qurʾān was required to justify this very conflict, to the greatest liberties being taken with the language of the Qurʾān itself. That the 'copying' etymology simply did not occur to Ṭabarī, once he had launched into his tafsīr, might be inferred from his rejecting out of hand the ibn ʿĀmir reading:<sup>3</sup> mā nunsikh, since he could make no sense out of it, other /

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1. p.478 top.

2. Meaning either 'copy' or 'translate'.

3. p.478.

other than to suppose that it meant: Whatsoever We cause you, Muḥammad, to 'naskh' ... which did not fit in with any Qur'ānic idea he was familiar with. He therefore saw no option but to regard it as an error, 'unfounded upon the traditional 'reading' materials.'

The reading: ʾaw tunsa hā, he lumps together with ʾaw nunsī hā.<sup>1</sup> The one is passive, the other causative, hence the effect is the same, the efficient agent, in either event being God, for these readings represent the rejection of the active voice reading - ʾaw tansa hā - attributed to ibn ʾAbī Waqqāṣ - and for reasons we have already enquired into. Ṭabarī rejects: ʾaw tansa hā and ʾaw tunsa hā, as equally eccentric departures from the 'readings' attributed to the (acceptable) 'readers'.<sup>2</sup>

Ṭabarī declares his own preference for the reading: ʾaw nunsī hā, providing only that this be interpreted in the 'non-forgetting' sense, as equivalent to 'natruk hā', meaning 'to leave it unaltered'. He further insists that nansaʾ and nunsī can be reconciled, and proposes to read both senses into the single term nunsī,<sup>3</sup> p.479.

God /

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1. ibidem p.479. The presence or absence of <sup>h</sup>Hamza is immaterial and irrelevant.

2. p.478.

3. i.e. the 'reading' is to that extent now irrelevant.

"God," he argues, "is advising His prophet that whatsoever ḥukm He replaces, or alters, or does not replace or alter, He will bring one better than it, or similar to it." This reasoning, he insists, is essentially based, not on legalistic, nor on theological, but on purely syntactical considerations: The sentence is an 'ʾaw' sentence. The syntax therefore must represent the presentation of two alternatives. Since God begins by speaking of what He will do, in the event of His altering and replacing the ḥukm of an āya, and then uses the particle ʾaw, He should logically follow this, by speaking of what He will do, in the event of His not altering or replacing the ḥukm of an āya. Since this is what God should mean, this must be what He does mean. The interpretation, moreover, will combine the concepts of nansa<sup>o</sup> and of nunsī, on the purely logical basis that anything which is left (munsa<sup>o</sup>, matrūk) is set aside (munsa<sup>o</sup>) in that condition in which it was, at the moment of its being set aside (matrūk). The reading is to that degree, for Ṭabarī, immaterial.

This interpretation, says Ṭabarī,<sup>1</sup> has been arrived at by enquiring into, and maintaining the logical and the syntactical development of the utterance, examining it on the basis of the orderly arrangement of the meanings, as expressed by /

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1. p.480.

by the component words. It has not been prompted by any doctrinaire opposition to the view that God should have caused His prophet to forget part of what He 'nasakhed' of His revelation.<sup>1</sup> This last, as we saw, is a view that Ṭabarī holds, and defends, save that he sought to document it, not, as others do, by appeal to the 'aw nunsī hā clause, nor /

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1. i.e. the formula naskh al ḥukm dūna al tilāwa is not founded in doctrinaire opposition to naskh al ḥukm wa al tilāwa, which Ṭabarī, as we have seen, claims to accept. This last of course means either to withdraw both ruling and wording, or to replace both. Ṭabarī would use the technical term 'naskh' for the second of these alternatives only, but only as a debating point. To him the first is simply raf', and it eluded his theory. Ṭabarī concentrat-<sup>2</sup>ing on naskh al ḥukm does not accept the 'stoning-verse'. (a) Jaṣṣaṣ excludes raf': "Naskh may operate on the wording and not on the ruling, which remains; or on the ruling and not on the wording, which remains. There is no third possibility." (b) Ṭabarī: There is no mansūkh other than a ruling which had previously been solemnly imposed. i.e. raf' al ḥukm [not raf' al tilāwa].

But insofar as the Mu'tazila attacked the theories of the 'uṣūlīs and insisted that if the ruling be altered the wording must be withdrawn,<sup>3</sup> Ṭabarī's defence of the dūna al tilāwa formula is doctrinaire. The tension between the 'withdrawal' and the 'replacement' tafsīrs was thus more than merely verbal.

2. This explains his argument (p. 334.) that God may alter the ḥukm of a verse (e.g. Q XXIV 2) yet leave the wording.
3. vide supra, p. 259; cf. F.B. bāb rajm al muḥṣan in v. XII.

nor by appeal to ḥadīths, but by appeal to the alleged logical consequences of the 'mā nansakh clause', read, in the sense of 'to replace the ruling alone'. The origin of the idea of this 'replacement', if derived at all from Q.II,106 would have originated, neither from 'mā nansakh' nor from 'aw nunsī hā, both of which Ṭabarī has examined in detail, but from the third clause, which he has not yet mentioned: 'na°ti bi khairin min hā °aw mithli hā! But, since no one part of the Qur°ān, which is all the Word of God, can be thought to be better than another part, (it is all mu°jaz), these words were not felt capable of being construed as a reference to the wording of the Qur°ān. They were therefore, exploited in support of yet another argument. The qualification 'better than' is diverted from the word 'āya' and applied to its effect: one ḥukm can be said to be 'better' than another ḥukm, either in the sense that it affords greater relief to the body of the worshipper, by being easier to perform, or, that it attracts greater reward to the soul, if more arduous to perform. If the replacing, and the replaced ḥukms were of equal difficulty or ease, they could be said to be 'similar'. This view of the matter has the virtue that it justifies the interpolation of the word 'ḥukm' in the 'mā nansakh min āya' clause.

Thus, the theological doctrine of the inimitability of the Qur°ān (its °i°jāz) has finally interfered with the finding /

finding of a satisfactory Qur'ānic 'proof' of naskh, and has forced the scholar to find his 'replacement' tafsīr in an inappropriate part of the verse, while, at the same time, providing him with a useful argument in the view that since 'better than' and 'similar to' refer to the ḥukm, and not to the āya, the ḥukm that is 'better than' the ḥukm of an āya, or 'similar' to it, and which may replace it, is not necessarily the ḥukm embodied in another āya. It could, for example, be embodied in a sunna. ( vide p. 377, n. 2.)

"There is no dispute concerning the view that the prophet does not abrogate the Qur'ān, on his own initiative - he does it in response to inspiration, (wahy) and the nāsikh, in such cases will not be worded in the Qur'ān style. Even if we consider him capable of abrogating the Qur'ān by his ijtihād, yet the authority to employ his own ijtihād derives from God, Who is thus the actual abrogator, operating through the medium of His prophet. One ought thus to hold that the Qur'ān may be abrogated, as to the ḥukm, at the hands of the prophet, rather than only at the hands of the Qur'ān, and although the inspiration in such cases is not a qur'ān inspiration, nevertheless, the Word of God is one, the Word of God is both the nāsikh and the mansūkh. God does not have two Words, one of which is expressed in Qur'ān style, which we are bidden to recite and which is called "Qur'ān" while another is not "Qur'ān". God has but one Word, which differs /



differs in the method of its expression. Occasionally God indicates His word by the "Qur'ān", and occasionally by words in another style, not recited, and called "Sunna". Both kinds are transmitted by the prophet, but in each case, the nāsikh is God alone Who indicates naskh by the medium of His prophet, at whose hands, God instructs us of the abrogation of His Book. This, none other than the prophet is capable of manifesting, none other than God of initiating. Were God thus to abrogate a verse by the instrumentality of His prophet, and subsequently to bring another verse similar to the former, He would have made good His promise, although it is not necessary to consider the second verse the actual nāsikh. He did not mean to state that He would bring a verse superior to the first, since no part of the Qur'ān is superior to any other. He meant to state that He would bring about a practice superior to the former, in the sense of being easier of performance, or richer of reward."

Ghazzālī, Mus. I, p.125.

The 'variant readings' of Q.II,106 in the post-Ṭabarī tafsīr:

The ibn ʿĀmir 'reading' mā nunsikh, rejected by Ṭabarī, as an error, was destined to a lengthy career of discussion, at the hands of the exegetes and the linguists. It would appear to have been the only reading envisaged by Zamakhsharī,<sup>1</sup> who explains that: as the 'naskh' of an āya means its 'izāla', its removal, effected by means of substituting another āya in its place, the ʿinsākh of an āya would mean commanding another that the āya be nasakhed. God commands Jibrīl to declare the āya mansūkh, by announcing its naskh to the prophet. On this interpretation, the agent of the ʿinsākh is Jibrīl,<sup>2</sup> addressing Muḥammad. It may appear to us extraordinary that this explanation, based, as it is, on the orthodox image of the mechanism of the revelation process, the descent of Jibrīl to instruct the prophet in the correct recitation of the revelations, and the accurate performance of the cult-rites, does not appear to have recommended itself to Ṭabarī,<sup>3</sup> who gave, as his reason for rejecting the reading, its lack of attestation, in the tradition. /

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1. Kash. Muṣṭafa al Bābī al Ḥalabī, Cairo, 1368/1948, vol. I, p.232.

2. Is this intended to remove the 'forgetting' interpretation from God by ceasing to regard Him as the subject?

3. cf. however, Ṭabarī's use of it in his comment on Q.XXII, 52, Taf.vol.17-21, p.131: Jibrīl came to him, and laid before him the sūra...

tradition. But, having made God the agent of the 'insākh, he was led to read the verse: 'We cause you, Muḥammad, to naskh the verse'. From this, Ṭabarī could apparently derive no sense appropriate to his other exegetical susceptibilities. For him, Q.II,106 testified to 'naskh' as an exclusive activity of God the revealer.

Baiḍāwī reinstates the 'mā nansakh' reading, mentioning the 'mā nunsikh' incidentally, as a variant, which he explains: 'We command you, Muḥammad,<sup>1</sup> (or Jibrīl) to naskh the verse. But 'naskh' has now achieved the following highly sophisticated definition: "the declaration of the termination of the religious obligation of the recitation of the verse, or of the application of the ḥukm embodied in the verse, or of both recitation and ḥukm together."<sup>2</sup> There could, therefore, be no difficulty in understanding the verse to mean: 'Whatsoever, We cause you, Muḥammad, (or Jibrīl) to declare mansūkh'... sc. to declare the termination of the religious obligation to recite the verse, or to implement /

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1. Baiḍāwī accepts the naskh of the Qur'ān by the Sunna. But so does Ṭabarī! Ṭabarī's conduct thus suggests that Q.II, 106 was originally employed specifically to justify naskh al ḥukm dūna al tilāwa. vide supra p.377, n.1.
  2. There is in this a detectable move away from the concept 'change' or 'alteration' in response to theoretical theological pressure. The word of God is not subject to change. The concept of 'termination' now moves into the foreground of definitions of naskh. It dates from Jaṣṣāṣ.

implement its ruling.

Another suggestion is that this Hamza reading: mā nunsikh: is not causative, but estimative: We find that it has been, or is to be nasakhed, sc. terminated. But, if the speaker is God, or Jibrīl, this can only effectively mean the same as nansakh, in which case, the two 'readings' amount to the same sense, even if their vowelling is different.<sup>1</sup>

If, on the other hand, 'naskh' means 'to copy, transcribe', it is not possible to use 'ansakha with the same meaning as the unaugmented form, since the hamza introduces causation: 'What We cause you, Muḥammad, to copy.' His causing him to copy can only refer to their being revealed, and the meaning would be: 'Whatsoever verse We reveal to you, or cause you to forget, We shall bring one better than it, or one similar to it.' This would mean that He would bring one better than or similar to every single verse revealed - the entire Qur'ān would be mansūkh, which is not possible, since only very little of the Qur'ān has been nasakhed.<sup>2</sup> The entire Qur'ān is of course mansūkh if naskh = to copy, sc. from the Heavenly Tablet.

Zamakhsharī reads: 'ʿaw nansaʿ hā', recording ʿaw nunsī hā /

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1. cf. Qurṭubī, II, p.67.

2. ibid. but, vide p. 377, n.2.

hā as a 'variant'. Yet the meanings he assigns to these two different roots, are again so close, as virtually to coincide. The existence of 'variant readings' need therefore, cause no difficulty in the interpretation: nasā'uha means: ta'khīruha, which he explains as physical, rather than temporal: to keep off, drive off, 'idhābu hā, lā 'ila badl, sc. non-replacement.<sup>1</sup> 'insā'uhā means: removing the memory of them from the minds, causing them to be forgotten.<sup>2</sup> The whole verse is to be interpreted: "Every āya<sup>3</sup> which God removes, on the grounds that human welfare requires its removal, both as to its wording and its hukm, or as to either the one or the other of them, whether in favour of a substitute verse, or not, He will bring one better than it,<sup>4</sup> for Mankind, the practice of which will be either more fruitful of heavenly reward, or productive of a similar reward."

Whether one reads nansa°/nunsi, Zamakhsharī, unlike Ṭabarī /

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1. This guarantees the benefits without however the theoretical embarrassments of the old forgetting theory, the subject being God. Forgetting is now under effective divine control.
2. cf. Ṭab.II,479. Ṭabarī isolated the same two concepts, but insisted that the second is derived from the principle of 'to abandon' rather than that of 'to forget'. For Zamakhsharī, the subject once more is God.
3. i.e. of the Qur°ān.
4. This expression is tautological.

Ṭabarī, has derived the 'withdrawal' tafsīr from this clause. Again, unlike Ṭabarī, he asserts that 'naskh' means 'izāla', but adds that this is effected by the revelation of a substitute āya.<sup>1</sup> On this reading, there is 'badl'; on the nansa/nunsi reading, there is no badl. The old 'withdrawal' and 'replacement' tafsīrs, once harmonised by Ṭabarī, are once again separated, and are now derived separately from different Qur'ānic statements. The vocabulary used enables us to perceive the source of their resuscitation in another quarrel on the theory of naskh and the meaning of the term, based this time, on concrete instances of 'naskh' adduced, in the course of the disputes.<sup>2</sup> Thus: naskh 'ilā badl means: replacement, following withdrawal. 'insāk means ordering Jibrīl to announce this. nansa/nunsi means removal of Qur'ānic matter without replacement, i.e. lā 'ilā badl, simple withdrawal. What is removed may be either: both the wording and the ḥukm = naskh al ḥukm wa al tilāwa.  
the wording alone = naskh al tilāwa dūna al ḥukm.  
the ḥukm alone = naskh al ḥukm dūna al tilāwa.

Zamakhsharī, has, however, quite failed to explain the origin of the 'replacement' concept, and ignored the relation to the rest of this verse of the clause: na'ti bi khairin min hā 'aw mithli-hā.<sup>3</sup> Thus we find represented in Zamakhsharī's tafsīr, /

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1. A linguistic absurdity.

2. See infra, p. 398.

3. vide supra, p. 372, note 1.

tafsīr, all three categories of naskh, as these had developed in the classical ʿuṣūl theory during the period since Shāfiʿī and Ṭabarī.

For Baiḍāwī,<sup>1</sup> 'naskh' means quite simply 'removal' and the three categories of 'naskh' are somewhat less logically all extracted from the single term 'naskh' which has recovered both its aspects of withdrawal and replacement. ʿinsāʿ means removing the āyas from men's memories, and appears to be a separate phenomenon, which reminds one of Ṭabarī's rafʿ.

nasāʿ, in the readings of ʿAbū ʿAmr, and ibn Kathīr, is defined in the Shāfiʿite sense: taʾkhīr ʿinzāliḥā. This was an interpretation which puzzled Ṭusī:<sup>2</sup> "...this is a weak doctrine, for what is the point of deferring something the creature knows not, has not learned, and has not heard? Unless it means: 'We defer it until a future time, revealing, instead, something, which, in the meantime, will take its place'." This is exactly, as we shall see, what it does mean to Shāfiʿī. ( e.g. ʿaw yajʿal allāh lahunna sabīl.)

Both Zamakhsharī, and after him, Baiḍāwī, mention yet another 'reading', absent in Ṭabarī: ʿaw nunassiḥa. (p.330, no9)  
Ṭabarī's /

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1. Taf. ad loc.

2. op.cit. pp.396-7.

Ṭabarī's silence, one is tempted to see as evidence that he had never heard of it. Whether this can safely be regarded as suggestive that the reading gained currency only between the years 300 and 460, which seems a strong presumption, in view of his normal assiduity in amassing readings, if only to reject them, or whether it found its way into the 'readings' literature from the related ḥadīth discussions, and hence is not strictly a 'reading' as Ṭabarī understood the term, it is probable that, unless he uncharacteristically ignored it, as unfounded in the 'reading' tradition, Ṭabarī would have treated it as a 'variant' of nunsī which he finally accepted as the most likely reading.<sup>1</sup>

The problem of the 'readings' continued to exercise the scholars: Qurṭubī,<sup>2</sup> ascribing the reading 'aw nansa' hā to 'Abū 'Amr and ibn Kathīr, states roundly that it was also the 'reading' of: 'Umar;<sup>3</sup> ibn 'Abbās; 'Aṭā'; Mujāhid; 'Ubayy; 'Ubaid; al Nakha'ī and Muḥaisin. For 'Aṭā, 'Ubaid, Mujāhid, see Ṭabarī.<sup>4</sup> The others do not figure in Ṭabarī, with the exception of ibn 'Abbās, who is credited with the meaning /

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1. Unless its meaning is restricted to "causing to forget" as opposed to "causing to abandon". Ṭabarī is not unfamiliar with the musnad of 'nunassi' vide Ṭaf.II,p.216.

2. loc.cit.

3. cf. Buchārī, K.al Tafsīr, Sūrat al Baqara, bāb: mā nansakh min āya.

4. cf. above, pp. 365; 371.



meaning of, although not, however, the reading of: mā nansa°. This reading, Qurṭubī states, derives from the idea of ta°khīr, and he mentions the two views, both of which were also mentioned by Ṭusī above. A third view of ta°khīr, he says, is 'We remove it from you, so that you neither recite it, nor recollect it.' This is the old withdrawal tafsīr, encountered also in Zamakhsharī. Both °Abū Ḥātim and °Abū °Ubaid he says, adopted the reading: °aw nunsī hā, taking this to mean: taraka = 'leaving', as opposed to 'forgetting'. This reading, and meaning he ascribes also to Suddī and ibn °Abbās. °Abū °Ubaid adduced, in favour of this opinion, the evidence of °Abū Nu°aim, the 'Reader', who had checked his reading with the prophet, whom he had met in the course of a dream. Muḥammad preferred the °aw nunsī hā to the °aw nansa° hā reading!<sup>1</sup> There are, however, grammatical objections to be raised against this reading: one does not use the hamza form: °ansā yunsī to mean 'taraka'. Nasītu al shai°a means: I left it. °ansaitu al shai°a means: I ordered (another) to leave it. Zajjāj, on this account, was inclined to be sceptical about the ibn °Abī Ṭalḥa ḥadīth, ascribing to ibn °Abbās the doctrine that the reading is: °aw nunsī hā, with the meaning of natruk ha, lā nubaddil hā. °aw nunsī hā should mean: 'We declare it lawful that you leave it.'<sup>2</sup>

The /

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1. Qurṭubī, loc.cit. p.68.

2. But the ibn °Abbās reading apud Ṭabarī °aw nansa-hā was as Goldziher saw, even more objectionable, cf. Richtungen, p24.

The scholars are divided on the question of whether 'Alī b. 'Abī Ṭalḥa had been in contact with ibn 'Abbās: "They say that he is trustworthy, although some have questioned his reliability, perhaps on account of his Shī'ī leanings. ibn 'Abī Ḥātim in his K. al Marāsil, relates from Duḥaim: 'Alī did not acquire his tafsīr from ibn 'Abbās directly.' He also relates from his father, 'Abū Ḥātim, a statement to the same effect. ibn Ḥibbān, in his Thiqāt says: 'Alī related from ibn 'Abbās, but he never met him!"<sup>1</sup>

Thus, a variety of meanings have been applied to this extrinsic term 'taraka', of which it is said that it means either: to leave the verse unaltered, sc. unabrogated; or that it means to leave the verse unrevealed but to reveal a substitute interim ruling; or, to leave the verse, sc. to leave off basing one's practice on it.<sup>2</sup> To the extent that such freedom of 'reading' and interpretation can be claimed by the scholars, it is reasonable to assert that for the purposes of derivation of doctrines, the Qur'ān text was irrelevant. Its function was obviously not to serve as the original source for that derivation, but as a post factum prop for the verification of whatever doctrine had found favour in the various circles.

Further /

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1. Ṭabarī, editor's foot-note, vol.II, p.527. Suyūṭī was of the contrary opinion, Itq. I, p. 197.

2. Junaid in Qast. vide vol.IX p. 289.

Further indication of the quite exceptional confusion clouding all that is said or written about this particular verse is the statement by Qurṭubī<sup>1</sup> that the majority of linguists and investigators take the view that 'aw nunsī hā means: 'We declare it lawful that you leave (taraka) it.' For, Rāzī asserts the direct opposite: 'The majority of the scholars interpret the 'aw nunsī hā reading to mean: forgetting, (which, curiously, he finds necessary to gloss): i.e. the opposite of remembering.<sup>2</sup> Forgetting, says Rāzī, in the sense of 'leaving' is figurative, and hence, secondary; that which is forgotten, will come, in time to be left, and since being left is one of the concomitants of being forgotten, some of them transfer the effect to the cause. But, in kalām, we must base our discussion upon the primary meanings of words, not upon the secondary usage.<sup>3</sup>

The /

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1. Qurṭubī, tafsīr, ad loc.

2. ad loc.

3. cf. Jaṣṣāṣ op.cit.I, p.67: "mā nansakh min āya: some say 'naskh' means 'izāla'; others that it means 'ibdāl' from 'fa yansakh allāh mā yulqī al shaiṭān' (Q.XXII,52) i.e. yuzīl, yubṭil, wa yubaddil makānahu āyyātin muḥkamātin; some say 'naskh' means 'naql' as in: 'innā kunnā nastansikh mā kuntum ta'malūn' (Q.XLV,28). Their disagreement concerns the original invention of the word in the development of the language. But whatever the circumstances of its linguistic genesis, its meaning as a technical term is the proclaiming the termination of the ruling and the wording.

The following table can be constructed on the basis of Rāzī's examination of all the various views proposed:

mā nansakh.

if 'naskh' = 'izāla', i.e. to suppress,

mā nansakh = naskh al ḥukm alone, i.e. replacement of the ruling alone, and 'aw nunsī-hā = naskh al ḥukm wa al tilāwa, i.e. forgetting; withdrawal - we suppress both wording and ruling.

if 'naskh' = tabdīl, i.e. to replace,

mā nansakh = tabdīl (replace) the ruling; or replace the wording; or replace both wording and ruling; and 'aw nunsī-hā = la nubaddilhā, i.e. taraka, therefore, leave the verse (unaltered) where it is, in the Qur'ān.

if naskh = raf', i.e. to withdraw,

'aw nansa' hā = we defer the raf' - therefore we leave the verse where it is, in the Qur'ān.

if naskh = 'copy', i.e. reveal,

'aw nansa' hā = we defer the copying, i.e. we leave the verse out of the Qur'ān; or, we reveal, but defer the abrogation, therefore taraka, sc. we leave the verse where it is in the Qur'ān.

In other words, there are as many possible tafsīrs of Q.II,106 as there are theories of abrogation, and the rôle of the Qur'ān in the discussions is limited only by the extent of the disputes.

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Naskh can apply to either the wording alone, with the survival of the ruling, or to the ruling with the survival of the wording. There is no third sort."

There had apparently grown, since the time of Shāfi'ī, some resistance to the notion that certain of the present contents of the Qur'ān are inoperative. Ṭabarī, committing himself to the 'transfer' etymology had had to bring his tafsīr into relation to the facts of the practice of the scholars of the previous generations who had already derived the main lines of the 'uṣūl. For the appearance of consistency, he had spoken of 'the transfer of the faithful from one ruling to another, whereas the Qur'ān had spoken, not of the regulation but of the āya. Ṭabarī further had sought to reconcile the two traditional doctrines - the withdrawal and the replacement - by apparently giving main emphasis to the Shāfi'ite view that whatever has been 'nasakhed' has necessarily, and by definition been replaced. He thus read into the single term 'naskh' what, for Khalīl and for Shāfi'ī had been a two-stage process of : suppression followed by replacement. His predecessors had been more concerned with the practice; Ṭabarī, being here concerned with a book, 'naskh' became for him, replacement followed, only on occasion by suppression. The difference is not merely one of emphasis. Logically, if not historically, suppression followed by replacement, and replacement followed by suppression amount to the same sort of result, providing only that one is discussing the doctrine and hence, the Qur'ān source. The mufasssīr, however, must attempt to discuss the Qur'ān document.

Shāfi'ī had defined naskh as 'taraka' - i.e. to leave off/

off, to abandon. In doing so, he was less concerned with the Qur'ān as a document, than with verifying the practice negatively from the Qur'ān source. But the verb 'taraka', to leave, can also be understood in the sense of 'to leave something where it is', not to remove, suppress, or replace. In the inherited Book God had left His verses. There was thus provoked a pro-Qur'ān counter-doctrine which sought to maintain that what had been left where it was, had, by that token, not been abandoned. The arguments of the protagonists of the 'replacement' etymology of the term 'naskh' were thus designed to counteract the propaganda that whatever verse has not been suppressed has not been abandoned. We saw this attitude represented in those views attributed to 'Alī and ibn 'Abbās on the question of the 'idda of widowhood and based on the implementation of 'all the verses'. If it is true that 'replacement' is a counter-etymology, then the earlier definition of 'naskh' must have been 'to suppress'. This is in line with Q.XXII,52. That that was the case is borne out by the Khalīl definition and by Ṭabarī's difficulties with the view that whatever verse has been 'taraka' in the Qur'ān, i.e. not suppressed, has not been 'taraka', i.e. abandoned. It next became essential for those using the Qur'ān to separate the wording of an āya from the ruling of that āya, so that they could distinguish between the verses which were matrūk al 'amal, (abandoned Qur'ān-based practice) and yet matrūk al tilāwa. The last is ambiguous, meaning, (depending /

(depending upon the argument), either that the recital of the wording has been suppressed, and therefore the wording does not figure in our texts; or the direct opposite - the wording has not been suppressed, but left where it was, and thus figures in our texts. This proceeding had several advantages; there was visible conflict between the sources - the Qur'ān and the sharī'a (Sunna); perceiving the grave danger which the Qur'ān represented for the Sunna, Shāfi'ī forebore from ever explicitly arguing for the occurrence of the abrogation of the Qur'ān by the Sunna, lest the greater ease with which, in the dialectic, the Qur'ān could be shown to be 'superior' (Q.II,106) to the Sunna would lead to the sweeping aside of the entire Sunna, in his day not yet collected, on the grounds that it did not agree totally with the Qur'ān. He therefore derived from the Qur'ān, i.e. from Q.II,106, a rationale which would not only preserve the Sunna, but by reference to other verses, give it the appearance, as bayān to the Qur'ān, of being consistently posterior to the Qur'ān in date, not, however, as its nāsikh, so much as its elucidation, and hence indispensable to our understanding of the Qur'ān. The Qur'ān is general in its utterances; the Sunna specific. The Qur'ān is vague; the Sunna explicit. The two sources are thus inseparable, mutually interdependent, and from the interpretation of their interplay, the scholar derives the valid 'amal. Shāfi'ī is not concerned with the Qur'ān as document. For the mufasssīr, /

mufassir, Ṭabarī, the situation has altered. His business is simultaneously with the Qurʾān document and the Qurʾān source. By his day the position of the Sunna as source had been secured. Beginning from the sharīʿa he can, therefore, afford, in cases of apparent conflict between the Sunna and the Book, to be more sanguine in the assumption of the occasional abrogation of the Qurʾān by the Sunna ruling, even where the wording of the original ruling survives in the Book. Unlike Shāfiʿī, now that the Sunna collection is far advanced, he need not fear reprisals against the Sunna from those who would argue its occasional abrogation at the hands of the Qurʾān. Where the sharīʿa points to the practice as being different from that adumbrated in the verses of the Book, Ṭabarī can, and does conclude that the Qurʾān-based ʿamal has been matrūk (abandoned). His belief cannot be shaken by the consideration that the wording of the Book has not been matrūk, in the same sense of abandoned, but has been matrūk, in the sense of having been left to stand where it was, in the text. The decisive criterion is always the doctrine - the sharīʿa. Where the ʿamal of a verse has been replaced, mansūkh, it is immaterial whether the wording of the verse has been mansūkh - withdrawn, suppressed, or mansūkh - duplicated, not withdrawn, nor suppressed. The separation of the concept of the wording of the āya from that of its ruling was further essential in the light of the ʿiʿjāz doctrine, if the Sunna (sharīʿa) were to prevail in any given instance of conflict./



conflict. This ensured that the notion of the abrogation of a Qurʾān-based ʿamal by a Sunna-based ʿamal offended no theological postulate; this neutralised the objection that the muʿjaz cannot be abrogated by the non-muʿjaz. The separation of the non-imperative wording from the imperative wording was further desirable to avoid yet other theologically repugnant conclusions that either the divine knowledge or the divine will had altered. Such conclusions might always be anticipated, as long as the concept of 'naskh' is bound up with that of 'tabdīl' alteration. Hence, both the imperative and the non-imperative may be withdrawn, but only the former may be replaced. The divine Lawgiver had therefore to be projected as unpredictably arbitrary, imposing such obligations as He pleased, and replacing such obligations as He pleased. He must also appear unpredictably compassionate, vouchsaying alleviation. In another phase of the discussions, the 'suppression' etymology (also derived from the Qurʾān) (Q.XXII,52) and the oldest of the etymologies, was exploited in accounting for certain assertions made concerning the history of the text of the Qurʾān, e.g. to 'explain' the disappearance of the 'variant' codices of the Companions - whose existence might be merely an allegation perhaps originally linked to the 'duplication' (nuskha) etymology of 'naskh' (copy). Ṭabarī now uses the same etymology to explain the survival (duplication) of the wording of certain mansūkh Qurʾān verses. ʿUbayy was alleged to be opposed /

opposed to the 'suppression' etymology, and refused to suppress anything he had had direct from the prophet. The story is useful, since his alleged two extra sūras can be accepted as having been in reality revealed, only not considered by the Companions as destined to be included in the muṣḥaf on that account alone. They were thought of as having been abandoned. This could be reinforced by ʿAbdāllāh's alleged argument that the Fātiḥa and the Muʿawwidhatāni had been revealed, but not destined, on that account to be included in the muṣḥaf. In that case, however, the contrary unanimity of the major Companions prevailed. When ʿUthmān drew up the promulgated text, all other nusakh were mansūkh, suppressed, abandoned. ʿUbayy, ʿUmar and Zeid were further to testify to the authenticity of certain 'verses' that had been matrūk (left out) of the Qurʾān although not matrūk al ʿamal. Their exclusion from the muṣḥaf by ʿUthmān does not indicate that they had not been revealed, only that having been revealed, they were not understood by the Companions, on that account alone, to have been destined for inclusion in the Book. Their exclusion referred however, only to their wording. The rulings continued valid. The wording had been matrūk (left out) the practice matrūk (left unaltered). A further stage in the growth of the Qurʾān source doctrine, deriving only from the methodological arguments of those who could never reconcile themselves to the notion that the non-muʿjaz Sunna could ever have /

have abrogated the mu<sup>o</sup>jaz Qur<sup>o</sup>ān - i.e. only for those who accepted the 'replacement' etymology of the term 'naskh' - is represented in the necessary postulation of a Qur<sup>o</sup>ān outwith the Qur<sup>o</sup>ān to account for elements of the doctrine in conflict with statements in the Qur<sup>o</sup>ān texts as we possess them. Shāfi<sup>o</sup>ī had already reached this position on the matter of the riḍā<sup>o</sup>. But the main development of this doctrine, represented in the rubric: naskh al tilāwa dūna al ḥukm: occurred in the post-Shāfi<sup>o</sup>ī period. Those on the contrary, and those alone, who accepted the doctrine of the abrogation of the Qur<sup>o</sup>ān by the Sunna - i.e. those who accepted the 'replacement' etymology of the term 'naskh', but, by separating the concept of the wording of a source from its ruling, and hence distinguished the mu<sup>o</sup>jaz wording of the Qur<sup>o</sup>ān from its non-mu<sup>o</sup>jaz ruling, which could be replaced by the non-mu<sup>o</sup>jaz ruling of the Sunna, expressed in non-mu<sup>o</sup>jaz wording, did not require to postulate the existence of a 'shadow Qur<sup>o</sup>ān' outwith the Qur<sup>o</sup>ān.

The 'replacement' etymology thus emerged finally as the victorious doctrine satisfying two entirely opposed parties within the scholarship, and it is most significant to note how many of the etymological studies in the <sup>o</sup>uṣūl and tafsīr literatures, close with the frank confession that the technical vocabulary of the Muslims does not in any case depend upon the linguistic value in the language of the individual terms. (cf. Jaṣṣāṣ, op.cit., I, p.67.)

## PART THREE

## CHAPTER NINE

The Qur'ān document:

1. The officially promulgated Qur'ān text : The ḥadīths adduced by the Muslims on the question of the date of the first official promulgation of a Qur'ān text are familiar to all, having been closely analysed by Nöldeke <sup>1</sup>. Several points remain to be added to his study. Of these, by far the most significant, not hitherto properly evaluated by Western scholarship is that none of those ḥadīths leaves any room for a Qur'ān collection by Muḥammad. It is proposed to argue here that the argument that Muḥammad had not collected the Qur'ān was consciously introduced by the Muslims for definite doctrinal reasons.

Two major issues have dominated both Muslim and non-Muslim discussions of the Qur'ān document : Qur'ānic 'variants', and the date and circumstances of the first Qur'ān collection. The 'variants' noticed in the literature are of three kinds: 1. Vocalic/consonantal; 2. synonyms; 3. interpolations. One point to be emphasised at the outset, is that insufficient attention has hitherto been paid to the advisability of keeping /

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1. GdQ II pp. 11-27.

keeping separate notices of Qur'ānic 'variants' which purport to refer to the period before the 'Uthmānic recension, from those purporting to relate to the period following its promulgation.

The Muslim discussion on the Qur'ān collection was provoked by the 'variants', which it deals with, generally under the influence of the abrogation theories. It has frequently been observed that the Qur'ān collection ḥadīths clash. They clash, indeed, with one another, and what is much more interesting, they clash as a body with another view : that the prophet, as prophet, had himself undertaken while yet alive, to prepare a collected edition of all that he, as recipient of the revelations, regarded as genuinely from God. That Muḥammad had not himself personally supervised a Qur'ān edition is no mere inference to be drawn from the Qur'ān collection ḥadīths but, in certain celebrated versions of those ḥadīths, is not merely explicitly asserted, but most emphatically repeated.<sup>1</sup> Zeid b. Thābit, the key figure in these ḥadīths reports elsewhere<sup>2</sup>: ' The prophet died at a time when the Qur'ān had not been collected into a single place.' This assertion was interpreted as meaning that the prophet had never assembled the Qur'ān revelations into a single volume.<sup>3</sup> This view is not felt by scholars to be controverted /

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1. Buchārī, K. Faḍā'il al Qur'ān: bāb: jam' al Qur'ān.  
cf.

2. Itq., I p. 98.

3. ibidem.

controverted by the well-known ḥadīth : 'Do not write, as being from me, other than the Qur'ān'<sup>1</sup> for this was held to refer to the individual written fragments. The entire Qur'ān existed in written form in the lifetime of the prophet, but distributed in fragments of varying size among the population of Medīna.<sup>2</sup> It was, thus, not arranged in its present sūra-order. Zeid further reports that they had 'organised'<sup>3</sup> the Qur'ān in the prophet's presence. This referred, we are told, to the arrangement of the scattered āyas and allotting them to their appropriate chapters. That the order of the verses was the work of Muḥammad is documented in an 'Uthmān ḥadīth<sup>4</sup> which clearly however, did not originate until the officially promulgated text had been criticised, not only for containing the allegedly abrogated Q II 240, but for placing it later in the text than its alleged abrogand, Q II 234. Such concessions to Muḥammad's contribution to our text leave little initiative to the Companion-compilers.

Why then, was such stress laid upon their alleged labours? 'Uthmān again informs us<sup>5</sup> that he omitted the 'bismillāh' of Q IX because 'the prophet died without explaining that it belonged to it'. Mālik explains its omission otherwise :<sup>6</sup> 'When the beginning of Q IX dropped out, its 'bismillāh' dropped /

1. Maṣ p. 4.

2. Itq. I pp. 98-9.

3. nu'allif.

4. Itq. loc. cit. p. 112.

5. Maṣ. p. 32.

5. Itq. loc. cit.

dropped out.

Qur'ānic variants : 1. the synonym theory.

Within Islam, two quite disparate attitudes to Qur'ānic variants are found reflected in the sources : the first is the expression of reprobation and reprehension, conveying a concern not apparently derived from merely internal Islamic considerations. The second, intended, perhaps, for internal Islamic consumption, showed an inclination to harmonise, to rationalise and to justify variations. This attitude is expressed in the postulation of an ancient indifference to details of the reading, so long as the meaning remained unaffected. 'Abū Huraira reports<sup>1</sup> the prophet as saying : 'The Qur'ān was revealed in seven versions and contention about the Qur'ān is disbelief.' This would justify school ikhtilāf, only public contention being prohibited.<sup>2</sup> The dangers that might be apprehended for Islam lie, not in the fact of, but in the results of such differences if the Muslims should behave in this regard like the Christians and the Jews. Zeid b. 'Arqam reports : ' A man went to the prophet and said: 'Abdallāh b. Mas'ūd taught me to recite a sūra; Zeid b. Thābit taught me the same sūra, and then so too did 'Ubayy. The recitations of all three differ. Whose reading ought I to adopt ? The prophet remained silent. 'Alī, at his side, said: Every man should recite as he was taught. Each of the recitations /

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1. Tab., taf., I p. 22

2. ibid. p. 52.

3. ibid. p. 24.

recitations is acceptable, valid.'

Hudhaifa said<sup>1</sup>: 'The people of Kūfa say : the reading of ʿAbdāllāh; the people of Baṣrah say: the reading of ʿAbū Mūsā. By God, if I reach the Commander of the faithful, I will order him to drown these readings.' [var. maṣāḥif.]

ʿAbdāllāh said : By God, if you do, God will drown you in a liquid other than water.

al ʿAʿmash reports that ʿAnas recited<sup>2</sup>: hiya ʿashaddu waṭʿan wa ʿaṣwabu qīlan. When someone pointed out that the 'correct' reading was ʿaqwamu, ʿAnas retorted : ʿaqwamu ʿaṣwabu ʿahyaʿu - they are all one.

## 2. The dialect theory :

An alternative explanation of the reported 'variants' derived from and rationalised further the first explanation. Alleging linguistic differences, scholars drew up more or less arbitrary lists of Arab dialects arguing that the Qurʾān had been revealed in seven dialects, although conveying but one single meaning. Typical of such a view is the assertion that the Qurʾān had been revealed in five Hawāzin-type dialects and in each of Quraish and Khuzāʿa. This odd view was fathered on ibn ʿAbbās.<sup>3</sup> The argument runs that in the early days of Islam, the dispensation to recite the substance of the Qurʾān in the several dialects had been motivated by the concern to make the duty of Qurʾān recitation as light as possible /

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1. Maṣ p. 13

2. Tab., taf., I p. 52.

3. ibid. p. 66.



possible. To have insisted upon Qur'ān recitation solely in one single vocabulary would have been to impose avoidable difficulties upon those attracted to Islam, but unfamiliar with the speech habits of Mecca. Solecisms might, further, involve bad theology. The dialect theory received several blows. 'Umar reported a quarrel with Hishām b. Ḥukaim over the wording of sūrat al Furqān.<sup>1</sup> But 'Umar and Hishām were not merely fellow-tribesmen, but fellow-tribesmen of the prophet to boot. There grew up a series of documentary ḥadīths modelled upon the account of the imposition of the five daily prayers during Muḥammad's heavenly journey, and influenced, like the dialect theory and the prayers-ḥadīth, by notions of takhfiḥ.<sup>2</sup> Muḥammad was made to inform 'Umar and 'Ubayy that<sup>3</sup> 'all the recitations are correct, so long as you do not turn a statement of mercy into a threat'. e.g. as you would say : Let us go, or let's be off.<sup>4</sup>

The reports we have thus far considered, express the view that the principal consideration in the recitation of the Qur'ān is that it should accurately reflect the meaning of the revelation, and that providing the meaning is conveyed faithfully, without any distortion, the vocabulary employed to clothe the meaning is immaterial. This view acquires confirmation in a statement from Zuhri<sup>5</sup> : I have heard that these /

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1. Tab., taf., I p. 24.

2. ibid. p. 35.

3. ibid. p. 25.

4. ibid. p. 43.

5. ibid. p. 29.

these are the seven forms and that they express but a single matter with no disagreement as to what is permitted and what forbidden. ibn Sīrīn states<sup>1</sup>: The 'readings' do not differ as to what is permitted and what prohibited; what commanded and what forbidden. You might say : ta'al halumma or 'aqbil. We, for instance, read: 'in k̄anat 'illā ṣaiha wāḥida, whereas 'Abdallāh recited it : 'in k̄anat 'illā zaqya wāḥida.

The view that transmission of the Qur'ān 'bil ma'nā' had once been legitimate was to be anathematised and had to be abandoned generally on the emergence of another doctrine - that of the 'i'jāz of the Qur'ān, especially after this term had come to be misrepresented as the Qur'ān's stylistic and linguistic inimitability in the strictest literary sense. Surviving ḥadīths were then re-interpreted to refer to seven literary constructions, quite arbitrary lists of which were once more drawn up. A typical list would enumerate : commands; prohibitions; promises; threats; logical arguments; narratives and parables.<sup>2</sup>

The breakdown of the dialect theory on consideration of 'Umar's report provokes a reserve rationalisation<sup>3</sup> : the origin of the difference was that 'Umar had memorised the sūra at an earlier date and was unaware of later additions to it. Hishām became a Muslim only at the conquest of Mecca. He /

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1. Tab., taf., I pp 53-4.

2. ibid. p. 52.

3. F.B. IX p. 21.

He would have learned the sūra in its later form.

This shows consideration of the isnād, as does the following: Hudhaifa said to 'Abū Mūsā<sup>1</sup>: 'Abdallāh b. Qais, you were sent to the Baṣrans as governor and teacher and they have adopted from you your 'adab, your dialect and your reading. He said to 'Abdallāh : You were sent to the Kūfāns as their teacher, and they have adopted your 'adab, and dialect and reading. 'In that case,' replied 'Abdallāh, 'I have not led them astray. There is no verse in the Book of God, but that I know where and in what connection it was revealed. Did I know of anyone more learned in the Book of God than myself, to whom camels would bring me, I should ride out to him.'

'Dialect' and 'reading' are not the same thing. The mere mention of 'asbāb al nuzūl leads to the following equation: by 'reading' is meant tafsīr; and by 'adab is meant 'amal, practice, fiqh.

' wabtaghū mā kataba allāh lakum': ibn 'Abbās said:<sup>2</sup> mā kataba means 'lailat al qadr'; 'Abū Hishām al Rufā'ī said : This is how Mu'adh read it. The word qara' here can mean nothing other than interpreted. 'One qirā'a is the tafsīr of another'.<sup>3</sup>

This brings out a fresh nuance of the word 'reading' which it must be remembered, refers both to the time before and to that /

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1. Maṣ p. 14.

2. vide Ṭab., taf., III, p. 507

3. Zurqānī, Manāhil, p. 162.

following the promulgation of the alleged official collection, but - and this has hitherto been overlooked - not with the same meaning. European scholars in approaching the problem of the Qur'ānic 'variants' by considering the Qur'ān as, primarily a document, have missed the point. To the Muslim scholars, the Qur'ān document is of little interest. To consider it, as they do, as primarily a source, leads to very different conclusions. Orientalists have noted at length the fact of the alleged differences between the alleged codices of the Companions. But it is the nature of these differences which is the crucial datum and these can only properly be understood when examined as references to the post-ʿUthmānic age. It is here essential to repeat once more that the Muslims insist that Muḥammad did not leave an edition of the collected Qur'ān, for that would<sup>1</sup> 'contradict the ḥadīths on the Qur'ān collections of ʿAbū Bakr and ʿUthmān ... Muḥammad did not leave out of the Qur'ān any verse which ought to be recited. There are reports from several Companions mentioning Qur'ānic materials revealed, but subsequently abrogated in respect of their recitation alone, without prejudice to the continuing validity of those rulings embodied in the original wording. An example of the kind would be ʿUmar's ḥadīth on the verse: al sheikh wa al sheikha; other Qur'ān matter was abrogated in /

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1. F.B. IX p. 53.

in both wording and ruling. Examples include 'Anas' ḥadīth on the Qur'ān reference to the Bi'r Ma'ūna martyrs; 'Ubayy's report that sūrat al 'Aḥzāb had originally been as long as Baqara; Ḥudhaifa's remark : They don't recite a quarter of Barā'a; these are all ṣaḥīḥ ḥadīths. ibn 'Umar disapproved of one's saying : I have recited the whole Qur'ān, observing, 'There are parts of it which have been withdrawn' [rufi'a]. None of these ḥadīths controverts Buchārī's assertion that the prophet did not leave more than is 'between the two covers' since these all report on verses whose wording was abrogated during the prophet's lifetime.'

Only isolated attempts have ever been made to argue that Muḥammad had personally undertaken the collection of the Qur'ān texts which we have in our hands today. Where made, such assertions have been countered by considerations of a technical nature, deriving from the abrogation theories. Thus, Muḥammad's failure to collect the Qur'ān is accounted for by "the prophet's expectation that a nāsikh might be revealed which would affect either the wording,<sup>1</sup> or the rulings of some of the verses."<sup>2</sup> With the prophet's death, revelation stopped absolutely and this disadvantage was finally removed.<sup>3</sup> The overwhelming inclination among the Muslims proved to be to credit one or other of the Companions with the merit of having been the first to collect and preserve the valid revealed word /

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1. i.e. naskh al tilāwa dūna al ḥukm.

2. i.e. naskh al ḥukm dūna al tilāwa.

3. Itq., I.p.58.

of God. This leaves no room for possible doubt that, whatever their other disagreements, the Muslims are agreed that the prophet is not to be thought to have done so.

We have already drawn attention to Zeid's repetition of the emphatic assertion that Muḥammad had not collected the Qur'ān. One's suspicion that that is likely to be untrue is less important than curiosity as to why the statement had had to be made. It was pointed out that the prophet forebore from collecting and promulgating the texts since, so long as he remained alive, abrogation remained possible and thus any collection made before his death must lead to confusion and uncertainty. That this rationalisation is itself absurd is sufficiently shown by the consideration that the 'classic' instances of abrogation consist in the simultaneous presence in the Qur'ān documents of statements held to be seriously at variance one with another. Sometimes so serious is this supposed discrepancy that the scholars saw no option but to assert that only one of the statements had been intended to be acted upon, while the other had remained a dead letter. Muḥammad had to be removed from the history of the formation of the Qur'ān canon to permit of the reconciliation of the post-Muḥammedan doctrine with the pre-Islamic Qur'ān.

In the discussions on the Islamic source of, e.g. the stoning penalty, where the Qur'ān said one thing and the doctrine another, the scholars attempted a solution. Their problem could be resolved only by appeal either to the alleged repeal /

repeal by the Sunna of the awkward Qur<sup>ān</sup> ruling, or to the alleged existence, outwith the Qur<sup>ān</sup> we now have, of another Qur<sup>ān</sup> statement on the question, containing the repeal of the unobliging text we are faced with. This gives two conditions: on the former, the Qur<sup>ān</sup> which gainsays the doctrine is seen to have been replaced by another source - the Sunna. This is a very problematic solution and proved quite unacceptable to many. The repeal must for them, have been effected by another Qur<sup>ān</sup>. This brings us to the second condition : this repealing Qur<sup>ān</sup> is not present in our texts. It must have been omitted when the texts were first assembled. A Qur<sup>ān</sup> which still allegedly operates on the doctrine could scarcely have been omitted while the prophet was still alive. The Qur<sup>ān</sup> texts could therefore have been first collected only after Muḥammad's death.

ʿIbn ʿAbī Dāʿūd ascribes to ʿUbayy the following version of Q IV 24<sup>1</sup>: fa-mā stamtaʿtum bihi minhunna ʿilā ʿajalin musamman; for Q V 89: fa ṣiyāma thalāthati ʿaiyāmin mutatābiʿātin. These both are not 'variant' readings but represent, relative to the "ʿUthmān" recension, additions to the text.

Ghazzālī<sup>2</sup> argues that the fast in expiation of an unfulfilled oath need not be consecutive, even if ʿAbdallāh did/

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1. Maṣ p. 53.

2. Mus. I p. 102.

did read : three consecutive days, since this interpolation is not mutawātir, and hence, is not part of the Qur'ān.

Abū Ḥanīfa, who conceded that this interpolation is not Qur'ānic, nevertheless, accepted it as a ḥadīth. But the practice should be based exclusively on what is explicitly attributed to the prophet.

i.e. 'Abdallāh's muṣḥaf is part of his sunna.

It matters not a jot to the revealed status of the Qur'ān whether one reads : 'aṣwabu; 'aqwamu or 'ahya'u; ṣaiḥa or zaqya. On the contrary, it is of the highest significance in the incessant school polemic, once the Qur'ān achieves source status whether one reads Q IV 24 with or without the interpolation attributed to 'Ubayy. With it, the verse provides a Qur'ānic base for a doctrine whose rejection was being founded upon materials currently circulating in the Sunna. The Qur'ān, as an element in the Tradition was thus playing the role of a counter-sunna, less open to objection, perhaps, than a ḥadīth-sunna. On this particular instance of ikhtilāf, ibn 'Abī Dā'ūd holds that 'We do not permit the use of a Qur'ān other than the 'Uthmān text which the Companions all accepted'.<sup>1</sup> This principle, however, applies only to the use of the Qur'ān at prayer.

Ṭabarī makes it clear that no 'pre-'Uthmān' variants had survived the promulgation of the 'Uthmān text.<sup>2</sup>

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1. Maṣ, loc. cit.

2. Taf., v. I p. 64.



The ikhtilāf he illustrated affects the Qurʾān when used as a source of the fiqh, and this latter role of the Qurʾān it was, that gave rise to the extensive disputes, in which 'variants' were not regarded as 'trivial or insignificant'. The subtlety of ascribing a 'variant reading' to ʿUbayy is seen in the existence of a series of ḥadīths designed to inform us that ʿUbayy stoutly refused to abandon (taraka) any of the Qurʾān he had heard from the very mouth of the prophet. ʿUbayy would have none of the doctrine of the abrogation of the wording of the Book. ʿUmar, on the other hand, who is credited with the prohibition of the usage<sup>1</sup> documented in the above 'ʿUbayy reading' figures in those ḥadīths attempting to convince ʿUbayy, from the Qurʾān itself, of the reality of the phenomenon.<sup>2</sup> The representation of ʿUbayy's insistence<sup>3</sup> on the quranicity of the words for the sake of establishing the quranicity of the practice is the reverse of the classical theory's insistence on the quranicity of the rule on account of the quranicity of the words. The mutʿa doctrine was upheld by insufficient numbers of Sunnī Muslims to acquire probative roots verified by mention in all the accepted sources. It was admitted, in view of certain ḥadīths, to have once been acceptable, then /

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1. Shāfiʿī, Umm, VII, p.219.

2. Bu. K. al Tafsīr, Baqara: mā nansakh min āya.

3. i.e. of those using ʿUbayy's name.

then alleged to have been abrogated in both Qur'ān and Sunna. Other doctrines, being widely acquiesced in, had no difficulty in acquiring documentation in both Sunna and Qur'ān. Although nowhere explicitly mentioned in the 'Uthmānic recension, mut'a could appeal to that convenient refusal of 'Ubayy's to abandoned 'revealed matter'. Other doctrines made this appeal with more avail than the unsuccessful attempt made on behalf of the mut'a. Rejection techniques open to the divided scholarship thus include: for the Sunna, isnād critique, and counting of ḥadīths. For both Qur'ān and Sunna, acceptance of both conflicting 'documents', with alleged abrogation of one of the two, affecting either the ruling alone, or, in the case of the Qur'ān only, abrogation affecting the wording alone, or alternatively, both wording and ruling. The last was the ground for the rejection of mut'a, 'Ubayy's 'reading' notwithstanding.

The variations between the information on the Qur'ān provided by the Companions thus correspond exactly to the variations on the information they provide for the Sunna, for which, as for Qur'ān, they are the common eponyms. Yet, there is a different degree or quality as between sunna-variations and Qur'ān-variations which is reflected in their respective developments. From the quarrels over the ḥadīth of 'Abdallāh<sup>u</sup> and the ḥadīth of another there was to emerge the 'Sunna of the prophet', parts of which can nevertheless /

theless be shown to be ad hoc forgery, designed to document local opinion.

From the qur'ān of 'Abdāllāh, of 'Ubayy, of 'Abū Mūsā et alii, there did not emerge a qur'ān of the prophet. That there are qur'ān forgeries will be shown. It is interesting to note that they never achieved acceptance into the text. At best, they were forced to remain the 'variant' of their Companion-sponsor, or, if more widely accepted, qur'ān's outwith the Qur'ān. (e.g. the 'stoning verse'.)

The suggestion that the 'Uthmānic and the non-'Uthmānic qur'ān<sup>1</sup>s drew upon a common underlying Qur'ān tradition tends to direct one's thinking towards an ancient Qur'ānic heritage, flowing upwards since the days of Muḥammad, and ultimately breaking surface at a point in time, when some imperious necessity was felt to call upon the Qur'ān to provide documentary evidence to buttress specific positions in the intense competition between the regional practices and doctrines. But when this occurred, certain things, (possible for the Sunna) did not occur. In the light of the doctrine on the Sunna-source, the sunna documents proved extremely malleable in the hands of the scholars. With the Qur'ān on the contrary, any departure from the 'Uthmānic' was always identified as the variant of some individual, and never merely referred to as the 'Qur'ān' in that loose fashion in which the word 'Sunna' is bandied about.

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1. GdQ III, pp. 77-80.

A Qur'ān text, in other words, associated with a Head of State and Church, is always set apart from the variant Qur'ān texts attributed to the individual Companions. A text, distinguishable from 'variant' texts has always retained an objective historical identity, and as to precisely what that was, there is no sign in the literature of any ambiguity. It was that text with no interpolations. Prof. Schacht's doubts as to the extent to which the Qur'ān was taken into account in the earliest period<sup>1</sup> cannot be taken to mean that before this, the Qur'ān document did not exist. What is implied is that the Qur'ān source did not. For the earliest period, the contents of the Qur'ān, at least for certain topics, were quite irrelevant for the elaboration and the documentation of the doctrine. The Qur'ān, (Q.II,228 ff; LXV,1 ff and XXXIII,48), says Schacht,<sup>2</sup> introduced the 'idda, a waiting period, during which a divorced woman and a widow were barred from re-marrying. This rule was still disregarded in the middle of the Umayyad period, as Agh.,XI,140 shows. The legal maxim: 'al walad lil firāsh' was intended to decide disputes about the paternity of a child which were likely to happen in conditions of frequent divorce with immediate re-marriage, but which /

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1. Origins, p.191, 224 ff.

2. ibid. p.181.

which could hardly arise under the Qur'ānic rule regarding 'idda. The maxim is, strictly speaking, incompatible with the Qur'ān and it had not yet asserted itself in the time of the dispute recorded in the Aghānī.

Ṭabarī also has a ḥadīth which suggests some unevenness in basing the practice upon the Qur'ān owing to lack of knowledge of its full contents.<sup>1</sup> But it is also Ṭabarī who subjects the statement: 'Contention concerning the Qur'ān is disbelief' to exegesis.<sup>2</sup>

The function of the ḥadīth - to document the Sunna - once the demand for Islamic documentation had arisen, is significant and it has been amply shown that this had important effects for the flexibility of the individual ḥadīths. It was this very flexibility which provided Goldziher with his clue to the basic inauthenticity of the ḥadīth in general. The Qur'ān, on the contrary, proves, once it takes its place alongside the ḥadīth for purposes of documentation, considerably more intractable material, since it is flexible only within very narrow limits indeed. Variety being possible solely within the range demonstrated by the alleged 'variant readings' of the agreed consonantal framework /

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1. Ṭab. ʿāf. I, p.22.

2. ibid. p.65.

framework, scholars are for the most part forced to seek the wider liberties they crave, not in the text, but in despite of the text, in the ingenious but obvious ta'wīl they resort to, in their determined efforts to circumvent a basically unyielding Book.<sup>1</sup> This very unhelpfulness of the Qur'ān as a source, and, as we shall see, the occasional grave embarrassment it caused the scholars, both speak strongly for its authenticity as a document, at least in this narrow sense, that it does not have the appearance of having been concocted posterior to the settlement of the doctrine with the aim of providing its documentation. The Qur'ān frequently contradicts the doctrine, "und da ist es Sache der spitzfindigen Theologen und Harmonistiker sich zurecht zu finden."

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1. From the practice of the scholars it would appear that the distinguishing characteristic of ta'wīl is broadly the insertion of words not occurring in the texts - the words supplied are, of course, held to be 'understood'. Tafsīr, on the other hand, consists in interpreting what is in the text by glossing the words. cf. supra, p. 191.

We have seen Ḥabīb Daḥūd's distinction between 'reciting' and 'reading'. The former referred to prayer, therefore to the Qurʾān document; the latter to the Qurʾān fiqh source. The Qurʾān collection ḥadīths are of a non-historical character and the numerous harmonising and rationalising tendencies they exhibit, betray their successive origins in a progressing controversy. Ḥadīths which assert that the Qurʾān existed in collected form since the days of the prophet are framed, not in reply to the question: when precisely was the Qurʾān first collected? but to the quite different question, which was basic for internal arguments : is our present text of the Qurʾān complete ?

The isnād of the Qurʾān :

The ʿUthmān collection tradition confronts yet another question : which Qurʾān tradition is the more authentic? the Medinese-Ḥijāzī tradition, tracing itself back to Zeid b. Thābit; or the Kūfan Qurʾān tradition claiming to descend from ʿAbdallāh b Masʿūd; or the Baṣran, from ʿAbū Mūsā, or the Syrian tradition, attributed to ʿUbayy and to Miqdād (or Muʿādh) ?<sup>1</sup> The wrangle concerns the isnād.

The ʿAbū Bakr-ʿUmar tradition may be an attempt as  
Nöldeke /

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1. cf. Ṭayālasī, op. cit., p. 76; Dārimī, Sunan, I, p. 55;

Ṭab., ṭaf., III, p. 507.

Nöldeke suggested,<sup>1</sup> to arrogate the credit to ʿAbū Bakr - ʿUmar. It could equally represent on the Medinese-Hijāzī side a deliberate effort to pre-date the other traditions by projecting the alleged ʿUthmān recension further back into the pre-diaspora Islam of Medīna, and hence nearer to the prophet, under the aegis of the isnād Zeid b. Thābit-ʿUmar.

Recalling the other dispute about who among the friends of Muḥammad had been the first convert to Islam, and thus the longest in terms of association with the prophet, we might connect with it the dispute about the first to collect the Qurʾān. Was it ʿAbū Bakr, ʿUmar or ʿAlī? If there were such a stage in this field, then the ʿUthmān could well represent, on the contrary, the later theoretical phase, when earliness of conversion had been dislodged by lateness of conversion. It would then post-date the work of ʿAbdallāh, ʿUbayy and ʿAbū Mūsā et alii. That the ʿUthmān is connected with the ʿAbū Bakr-ʿUmar initiative is attested by the rôle of the ṣuḥuf of Ḥafṣa. It is also profitable to think (instead of the ʿAbū Bakr-ʿUmar-ʿUthmān Qurʾān collection) in terms of the Zeid b. Thābit codex, opposed to that of the older Companions.<sup>2</sup> For the choice of Zeid as eponym of that tradition is the chief outstanding feature of /

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1. GdQ., II, p. 22.

2. vide pp. 402, 423.



of that particular group of ḥadīths.

In view of what we have already said, and of what we shall say hereafter, about isnād-construction, there can be no questioning that Zeid's attachment to the 'ʿUthmān' codex reports was later than the attribution of other codices to other Companions. When ʿAbdallāh was made to say that he had learnt his Qurʾān from the prophet before Zeid had reached puberty<sup>1</sup> or that he had become a Muslim before Zeid was even born,<sup>2</sup> this had doubtless originally been intended to seek to pre-empt the primacy in codex matters in ʿAbdallāh's favour. The effort rebounded, in later theories, to the disadvantage of ʿAbdallāh's and in favour of Zeid's 'muṣḥaf', owing to Zeid's undenied lateness. Considerably younger than ʿAbdallāh and surviving, as he did, the major Companions, Zeid serves as the musnad of the latest Qurʾān tradition and that recension to which his name is attached is the 'nāsikh' of all earlier recensions and codices. The ʿUthmān tradition was thus, opposed on occasion for doctrine documentation by the 'variant' codices, which, as we have seen, were also used to counter the Sunna, on the occasions when this was at variance with 'the Qurʾān'.

The Qurʾān counter-attacked in the ʿUthmān Qurʾān isnād by co-opting Zeid b. Thābit, precisely on account of his youth and thus the lateness of his conversion to Islam.

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1. Maṣ p. 14.

2. ibid. p. 17.

A third explanation of reported differences in 'reading' was a variation of the 'seven acceptable versions' theory which postulated that a number of Qur'ān texts represented parallel revelations. The major Companions had been in the presence of the prophet at different times, and each learning his Qur'ān recitation direct from the prophet at such times, the individual versions might differ slightly in the wording. Hudhaifa and 'Uthmān were both shown as alarmed at the 'reading' disputes which seemed to them to threaten the Muslims of Iraq, as of Medīna, with those divisions which had already afflicted Judaism and Christianity. The solution of that party lurking behind this attitude, was to throw back to the first generation their own recommendation that the Muslims be united on the basis of a single muṣḥaf.

It would be hazardous to doubt that what is behind the attribution to this or that Companion of a muṣḥaf is identical with what lies behind the ascription to a Companion of this or that sunna. There would seem to be no better reason for a willing suspension of disbelief in regard to the 'reading of 'Abdāllāh' or the 'reading of 'Abū Mūsā' or the 'reading of 'Ubayy' than there is in relation to 'ḥaddathanā 'Abdāllāh' and 'ḥaddathanā 'Ubayy'. If we still accept the Qur'ān's of the Companions, as historical, we ought in the same logic to accept also their sunnas. If we reject these, however, we ought also in logic to reject those.

Buchārī /

Buchārī quotes from Muḥammad's daughter,<sup>1</sup> Fāṭima, that the prophet informed her secretly that Gabriel checked the Qurʾān texts with him annually, but that in that particular year, Gabriel had checked them twice. Muḥammad concluded that his death was approaching.

This concept of 'the annual review' was the starting-point of considerable speculation :<sup>2</sup> Did the review involve the checking of the numerous permitted 'aḥruf', or was it concentrated upon only one ḥarf ? If so, which was that ḥarf? Was it on the basis of this one ḥarf that ʿUthmān had united the Muslims? ʿAḥmed, ibn ʿAbī Daʿūd and Ṭabarī are credited with the view that the ʿUthmānic codex was based upon the text examined by Gabriel in his final meeting with Muḥammad during the latter's final year of life. In an ibn Sīrīn version of the ḥadīth on 'the annual review' it is reported that: 'they are of the opinion that our present text is the latest of all texts, having figured in the final review.'

Mujāhid reports ibn ʿAbbās as having asked : 'Which of the two texts do you consider the later?' They replied the Zeid b. Thābit text. 'No,' said ibn ʿAbbās, 'the prophet reviewed the Qurʾān annually with Gabriel; twice in the year of /

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1. Buchārī: K. Faḍāʾil al Qurʾān, bāb: kāna Jibrīl yaʿriḍ al Qurʾān.

2. F.B. IX pp. 35-36.

of his death, and the 'reading' of ʿAbdallāh was the later of the two final review texts. ʿIbrāhīm tells us that ibn ʿAbbās heard a man refer to 'the former Qurʾān text'. He asked him what he meant. The man replied : 'ʿUmar sent ibn Masʿūd to Kūfa as instructor and the people there adopted his 'reading'. Then ʿUthmān altered the text and so they refer to ʿAbdallāh's as the 'former' text. 'But it is the later,' replied ibn ʿAbbās, 'based on the final review.'

Elsewhere<sup>1</sup> ibn ʿAbbās reports that ʿAbdallāh attended the final review and learned what had been abrogated (nusikha) and what altered (buddila).

We find also a ḥadīth that Zeid was present at the annual review of the Qurʾān<sup>2</sup> and another report that ʿAbū Bakr had witnessed the revelation.<sup>3</sup> He heard Gabriel's voice, although he did not see him.

The 'annual review' and especially 'the final review' motif had been deliberately introduced by those using ʿAbdallāh's name to overcome the recognised difficulty that Zeid was younger than ʿAbdallāh. That difficulty was to become Zeid's strength and his choice as musnad of the ʿUthmān recension must have represented the implication that /

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1. Suyūṭī, Durr, Q II 106.

2. Itq., I p. 86.

3. Maṣ p. 6.

that his 'reading' [muṣḥaf] was later than, and abrogated that of the older Companions. The restricted reference in one of the ḥadīths to the 'two readings' is suggestive. The codices referred to other Companions have their source in the attribution to ʿAbdallāh of a codex at variance with the 'ʿUthmānic'.

al Baghawī in 'Sharḥ al Sunna' says:<sup>1</sup> "The muṣḥaf which was finally settled represents the final review text. This ʿUthmān commanded to be copied into the maṣāḥif and on its basis united the Muslims. He destroyed all other versions of the texts, in order to render impossible any variation. Thus, whatever 'reading' does not coincide with the consonantal base of the ʿUthmānic codex is to be regarded as abrogated, like any other matter once in the Qurʾān, but subsequently abrogated and withdrawn. None may now go beyond what is in the text, to what is a departure from its accepted consonantal outline." - i.e. at prayer.

Islam, following the death of the prophet, and more particularly following its export from the Arabian peninsula into the surrounding territories, among peoples familiar for centuries with the presumptions of revealed ʿummas required a Qurʾān - a Book of God - to establish its credentials and to authenticate /

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1. F.B. IX p. 25.

authenticate its claims, on behalf of its system of doctrine, to be a divine revelation, over against the older dispensations. This need represents one aspect of the solicitude of the Muslim scholarship on the question of the early dating of the collection of the Book discernible in the Hudhaifa ḥadīths on the ʿUthmān, even more in the Zeid ḥadīths on the ʾAbū Bakr initiative.

What more nearly interests us, however, in the context of our present enquiry is the need felt in the various regions to authenticate their local traditions, internally within Islam, by appeal to the authority of a major Companion. Ultimately, once Sunna had been defined as the Sunna of the prophet, the appeal was to the authority of Muḥammad. Part and parcel of these same activities was the provision of the genealogy of those elements within the doctrine, at the local level, which apparently had to be made to appear to derive from the Qurʾānic component of that Tradition. Qurʾān verses, which might be urged against any element of the local doctrine, could be 'proved' to have been abrogated. Equally, 'lacunae' in the inherited texts could be supplied by appeal to the muṣḥaf of the local Companion-eponym.

But a doctrine, such as the stoning penalty, urged almost universally was not referred to a Companion muṣḥaf, but to the demonstrable abrogation of the wording of "the Qurʾān".

The Companion muṣḥafs clearly served a specialised need.

The local and the non-local appeals to the Qurʾān suggest very /

very forcibly a stage in the development of Islamic science when scholars were unable to ignore a demand that a primary source of the shari'ca must be seen to be traceable in the Qur'ān, the Book of God. When precisely this principle triumphed is difficult to ascertain, but it must have been part product of a complex situation facing that generation out of whose reaction to pressures emerged the traditions on the Qur'ān collections. The Ḥudhaifa ḥadīths, with their mention of the troubles that might be anticipated in Iraq, may serve to suggest, linking up, as they do, with Schacht's suggestion of the priority of Iraq in the processes of the desecularisation of the doctrine,<sup>1</sup> the locale in which these pressures might first have begun to be felt acutely. Those ḥadīths referring to the 'Abū Bakr-'Umar endeavours on the Qur'ān's behalf alert our minds to the possible role played by a particular class in these responses to the pressure - the corporations of the qurrā' - who might, for example, have felt their interests threatened by the growing recognition of both speculation and ḥadīths. We perhaps can read some of this in the fabrication of ḥadīths on the necessity to familiarise oneself with the Qur'ān.<sup>2</sup> We must consider, in addition, the influence of the conversion of untold numbers of former adherents of the older religions, importing with them into Islam their more highly developed theories on revelation and on prophets. Nor should the role of external Muslim-Christian and /

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1. Origins, p. 223.

2. ibn al Jawzī, Mawḍū'āt al ḥadīth, fol.41.

and Muslim-Jewish polemic be ignored as a factor for the developments in both the Qur'ān and the Sunna doctrines.

Appeal to the alleged 'reading' of the scholars' local Companion-eponym could continue to be a technique available in disputes, thanks to the alleged 'deficiencies of the script' and to the absence of punctuation indicators, (although again, this is not restricted in its use to merely local questions)<sup>1</sup> long after the Muslims had been 'united on the basis of an agreed consonantal reading' of the Qur'ān. Extra-Qur'ānic assistance could also be sought in the 'asbāb al nuzūl ḥadīths. Of all the techniques of scholarship the most intriguing is the reference to "the Qur'ān" of doctrines which might as well, (in some cases, better) have rested their documentation in the Sunna. The duplication, especially in those instances where the Qur'ān source is no longer present in the texts, certainly argues a stage at which the reference to the Sunna was rejected as insufficient. As a self-proclaiming divine revelation, Islam would be expected to furnish evidence of its origins from what its contemporaries regarded as the indispensable founts of a divinely-revealed Book and a divinely-sent prophet. The internal dispute between speculation and ḥadīth had predated, since it had conditioned /

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1. Both tampering with the punctuation and 'asbāb al nuzūl enabled the scholar to trace ṣalāt al khawf and ṣalāt al safar to one and the same Qur'ānic verse. Itq., I p.92.



conditioned the emergence of the concept of 'the Sunna of the prophet'. It thus predated the dispute on the primacy of the Qur'ān, relative to the Sunna in the records of which the concept of 'the Sunna of the prophet' is already mature.

The Qur'ān source is thus younger than the Sunna source and arose partly in opposition to it. The Muslims had verified their claims that Islam was a revelation by reference to a prophet-figure. Out of this stage had emerged the concept of a revealed Book of God, vouchsafed to this prophet.

The opponents of individual appeals to the Sunna we have seen appeal to the Qur'ān. For the purposes of internal polemic, the insistence that the prophet had not collected the Qur'ān gave scholars the necessary leverage to introduce allegations of abrogation of wording, in reconciling the doctrine with the known contents of the Book. The credentials of Islam could be safe-guarded by assigning the earliest possible date to the collecting of the texts; the doctrine, by assigning that collection to anyone but the prophet. In the collection, the Companions of Muḥammad, like those of Christ, were inspired - some say they were infallible.<sup>1</sup>

In the field of the Sunna, the competition between conflicting doctrines easily fell into the habit of asserting the abrogation of the rival doctrine's ḥadīth documentation.

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1. Itq. I. p. 86.

We now know that the same technique was employed in regard to the rival Qur'ān traditions. When both the Sunna and the Qur'ān pass beyond the Companions to the prophet, precisely the same isnād considerations continue to be applied. For in both spheres, account is taken of the dates of the musnads.

One takes note only of the later actions of the prophet, according to Buchārī,<sup>1</sup> while, according to Mālik, the Muslims adopted the latest situation to be reported from the prophet.<sup>2</sup> These are both ṣuṣūlī statements of technique and are based upon the harmonisation of the available ḥadīths.

In the entire field of the divine revelatory activity, one takes note of and adheres to the latest reported situation.

#### The Qur'ānic 'variants':

The Qur'ān enters into the methodological discussions at that stage when the appeal to the sunna of the Companions is about to be replaced by appeal to the 'Sunna of the prophet', and the alleged Companion-codices are a product of that transition under the influence of the emerging demand for appeal to the Qur'ān, as opposed to appeal to the sunna. Behind the appeal to the 'variant codices' is the common assumption that the Qur'ān comes from the prophet viā a musnad. That /

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1. Bu. K. al ṣalāt: bāb: ḥinnamā ju'ila al ḥimām.

2. Muw., K. al ṣiyām: bāb: mā jā'a fil ṣiyām fil safar.

That the 'variant' readings appealed to continue to be associated with individuals among the Companion generation, further suggests that they had always been recognised as differing from the generally accepted text. The suggestion that the ʿUthmānic and the non-ʿUthmānic Qurʾān traditions were directly and independently drawing upon an underlying store of oral tradition<sup>1</sup> is complicated by the consideration that, so far as these have been examined to date, all Qurʾān MSS. exhibit throughout the ʿUthmānic text.<sup>2</sup>

One might have expected, as so often happens in literary history, that some hard evidence of the existence of non-ʿUthmānic ( or of pre-ʿUthmānic) 'codices' would have survived in some quarter of the Islamic world, especially since some traditions argue<sup>3</sup> that ibn Masʿūd ordered his followers to lay up their Qurʾān's in hiding and withhold them from the government agents allegedly charged with their destruction. The scholars were pre-occupied, not with the Qurʾān document, but with the Qurʾān source. Hence its attribution to the Companions: ʿUbayy; Miqdād; ʿAbū Mūsā; ʿAbdallāh and Zeid; to the prophet's widows: Ḥafṣa; ʿĀʾisha and ʿUmm Salama; to his successors: ʿAbū Bakr; ʿUmar; ʿUthmān and ʿAlī.

The Qurʾān text, in short, like any other sunna in the canon /

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1. GdQ. III, pp 77-80.

2. ibid. p. 97.

3. wrongly ! The ḥadīth rationalises the continued habit of appealing to a muṣḥaf that survived ʿUthmān's command.

canon of the Tradition was equipped with its isnād, preferably an isnād high enough to produce a marfū<sup>c</sup> mutṭaṣal matn.

A useful by-product of these attributions is that those who allege that in no circumstances can a prophet forget any part of the revelation, but who yet hold that the Qur'ān is incomplete, by transferring its collection from the prophet to the Companions, likewise transfer to them any alleged omissions. The Qur'ān is become none other than a sunna mutawātira to which will be attached the highest degree of credibility due to its spread and to which will be accorded, in some schools, that same consideration and treatment which is extended to any other sunna of the same class.

#### Ikhtilāf and the Qur'ān :

One would be immeasurably more impressed with that achievement which the 'Uthmān collection ḥadīths seek additionally to ascribe to him - his having thereby 'united the Muslims on the basis of a single text' to be read in a single dialect and thus having rendered ikhtilāf ( at least on textual matters) impossible - if, in fact, such ikhtilāf were seen to have become impossible after his reign. But that the initiative was, in this direction, a complete failure is admitted by other ḥadīths which show 'Uthmān either permitting,<sup>1</sup> or himself using<sup>2</sup> 'readings' at variance with those enshrined /

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1. Richtungen p. 33; cf. Maṣ p. 39.

2. Maṣ p. 36.

enshrined in that muṣḥaf which is his sole proud memorial. "I prohibited the 'readings' because I feared ikhtilāf," said ʿUthmān, "but now, read it as you will."

"Hide your Qurʾān's," cried ʿAbdallāh. "How can you order me to read in the 'reading' of Zeid, when I recited from the very lips of the Messenger of God seventy odd sūras." <sup>1</sup>

Ḥudhaifa and ʿAbdallāh were with ʿAbū Mūsā.<sup>2</sup> They had a muṣḥaf which ʿUthmān had sent, ordering them to make their Qurʾān's conform with it. ʿAbū Mūsā declared that anything in his muṣḥaf that was not in the ʿUthmān text should not be omitted; anything in the ʿUthmān and lacking in his, should be added. Ḥudhaifa said : 'What is the point of our work ?' Nobody in this region will give up the 'reading' of ʿAbdallāh, and nobody of Yemānī extraction will give up the 'reading' of ʿAbū Mūsā.' It was Ḥudhaifa who had advised ʿUthmān to unite the muṣḥafs [jamʿ al maṣāḥif] on the basis of one muṣḥaf.

Not only is there absolutely no evidence that reading uniformity prevailed after ʿUthmān there is, on the contrary, in every work of fiqh every indication that the exact opposite was increasingly the case. ʿUthmān was assassinated and laid in his grave and the heyday of ikhtilāf was yet to come. What, then, if any, is that historic achievement with which the /

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1. Maṣ p. 15. Here, ʿAbdallāh is apparently addressing the authorities, rather than, as traditionally supposed, his own followers. The former is the better tafsīr.

2. Maṣ. p. 35.

the memory of 'Uthmān is to be glorified ? To understand the traditions, it is necessary to reconsider the conditions against which the activity ascribed to 'Uthmān was thought to have occurred. The Iraqis and the Syrians, the Kūfans and the Baṣrans were all said to have indulged in mutual recriminations and to have exchanged accusations of heresy and error in regard to their respective 'readings'. This runs parallel with their mutual indictment of the other's sunnas and ḥadīths. Any mention of the alternative dialect rationalisation is merely the acknowledgment that the linguistic sciences had not yet been developed in 'Uthmān's day. But we have met too, with ḥadīths which distinguished dialect from 'reading'. Neither the dialect problem had been overcome by the very work ascribed to 'Uthmān,<sup>1</sup> nor the reading problem settled by his supposed provision of a uniform consonantal base. Goldziher has signalled<sup>2</sup> a disputed vocalic reading for the very Q IX verse which Zeid is said to have re-instated: 'There has come to you a prophet from your own number...' 'There has come to you a prophet from the most precious among you...' This reading is ascribed not only to Fāṭima and 'Ā'isha, but even to Muḥammad.

It was possible after 'Uthmān's death for scholars to explain the origins of the Muslim sciences as centring upon solicitude/

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1. Maṣ p. 32

2. Richtungen, p. 35.

solicitude for the avoidance of incorrect doctrine occasioned by incorrect reading of the Qur'ān texts. The consonantal base was envisaged as having been fixed, but not the vocalisation.<sup>1</sup> Were even this the case, liberty would be little affected as there would yet remain to the scholars such scope for 'variant readings' that it is not possible to understand why 'Abdallāh was conceived as so violently opposed to the obvious good sense shown by 'Uthmān.

When we have considered the 'variant readings' projected to the ancient authorities to whom appeal is constantly made in the course of undignified squabbles over the texts, by the rival groupings, it is exceedingly difficult for us to comprehend what could have given rise to such widespread fuss. For no major differences of doctrine could be constructed on the parallel 'readings' ascribed to muṣḥafs other than the 'Uthmānic. Basically the so-called rival 'readings' represent unquestionably one and the same text and, indeed, are agreed substantially in what they transmit, varying from each other to the extent of their occasional respective preference for one of a number of possible synonyms, inflections and the use or non-use of conjunctives. The 'variant' codices are further differentiated by a limited number of interpolations relative to the so-called 'Uthmān text. A detailed comparison of the use made of the so-called "'Abdallāh codex" against the so-called /

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1. Fihrist p. 66.

so-called "ʿUthmān muṣḥaf" leads us to conclude that the traditional accounts of the actions and motives of ʿUthmān cannot possibly be correct. If pre-ʿUthmānic ikhtilāf did not provoke the promulgation of the "ʿUthmān recension", since his supposed work did not put a stop to ikhtilāf - ( and the ḥadīths, as we have seen do not attempt to disguise this failure) - the probability is that neither the pre-ʿUthmānic codices, nor the ʿUthmānic codex itself ever existed.

" The ʿumma abandoned (tarakat) recitation after the six forms which their just ʿimām had insisted they abandon... until they lost all knowledge of them, and all trace of them was quite obliterated. There is today no possibility of reciting them, on account of their having vanished without a trace, and on account of the Muslims' agreement to reject recitation on their basis, without however, any reflection upon their correctness, nor on that of any fraction of them. No recitation is today possible for the Muslims other than on the basis of that one consonantal text which their solicitous ʿimām had selected for them."<sup>1</sup>

The connection through Ḥudhaifa to the 'variant' Qurʾān traditions of ʿAbdallāh, ʿAbū Mūsā et alii, is not so much quite broken, but rather, duplicated in this way of seeing things. It was inevitable that where alleged their 'readings' should appear as mere 'variants' of the ʿUthmān text. In truth /

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1. Tab., taf., I p. 64.



truth that is what they are. Yet this is not the impression one derives from the tafsīrs, with their frequent reference to the muṣḥaf of ʿAbdallāh and the rest. Indeed, there was to develop a whole literature devoted to the science of the maṣāḥif. Ṭabarī means that the recital of the entire Qurʾān after the six abandoned readings became soon after ʿUthmān's time quite impossible. With no mention at this point of the subsequent fate of the alleged Companion codices, his formula is revealed as an abstract rationalisation of the implications of certain classes of ḥadīth. His statement underlines again the fact of the unique position occupied by the so-called ʿUthmān text, in the general Qurʾān tradition.

By the end of the third century all trace of six of the original seven readings had quite vanished. Like the Torah, the Qurʾān had lost six-sevenths of its original bulk.<sup>1</sup> Had they ever existed, the total disappearance of this entire mass of the lost six-sevenths would be improbable, if only for reasons of human curiosity. Considerations of this sort led to the insertion into the ʿUthmān collection-ḥadīths of the detail of his commanding the wholesale destruction of all other Qurʾān records.<sup>2</sup> Further, their quite total eclipse leaves us entirely dependent upon reports for any knowledge that they had ever existed, and, as Mekkī says, God knows best how sound /

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1. Itq. I p. 72. The seven 'readings' must not be confused with the 'seven readers', F.B.IX p.25.

2. This must now cover dialect and Companion codices.

sound those are.

The Muslim apparatus on the various Qur'ān collections is but one attempt to cover all the acknowledged (undeniable) facts, and to combine a rationalisation of the visible ikhtilāf with the equally undeniable non-survival of alternative Qur'ān codices on which the mukhtalafāt could be seen to rest.

What of the muṣḥafs of 'Abdallāh, of 'Ubayy and the others?

In Ṭabari's day, ikhtilāf could operate only within the limits provided by the single consonantal base. But the examples of 'readings' which he quotes, pre-suppose multiple consonantal bases, and thus did not derive from the deficiency of the script. It being unthinkable to a Muslim that the differing qur'ān's had represented, or even adumbrated differing laws, even on detailed questions, the only rational conclusion to be drawn from the reported differences among the Companions was that these had taken the form of synonyms. The dialect theory had been able to exploit the reports on the heterogeneous tribal origins of the major Companions.

'Abdallāh was of Hudhail; 'Abū Mūsā of the Yemen; Zeid and 'Ubayy were of Medinese origin. A more interesting class of alleged 'variants' is again, here quite overlooked, without consideration of which it is impossible to suggest a single satisfactory all-embracing explanation of the reports on the Companion muṣḥafs, as an alternative to the Muslim view.

These are those interpolations whose motivation was patently doctrinal and which offer not alternatives to the 'Uthmānic consonantal /

consonantal base, but represent additions to it, because, indeed adumbrating details on various legal questions not derivable from the 'Uthmān text. That was therefore, doubtless their sole function and sole raison d'être.

These interpolation-'variants' must be kept entirely insulated from the synonym-'variants'. This done, the following picture emerges : the really significant differences between the regions were doctrinal; each school, when the Qur'ān had begun to be demanded as the primary source, employs the Qur'ān to document its teachings, which had been, for the purposes of sunna-documentation traced to the alleged 'adab of a prominent Companion. The technique was, by analogy extended to the Qur'ān, a 'variant' reading being projected to the Companion witness. The local doctrine can occasionally be fitted to the Qur'ān texts only by means of resort to interpolation. Words would be inserted and ascribed to the alleged codex of the school's Companion-sponsor. At a stage when scholars, bent on 'proving' the authenticity of all and sundry ḥadīths which had outlived their utility came to the exposition of the 'seven forms' ḥadīths some had tried to make these comprehensible by interpreting them in the sense of references to synonym-'readings'. The 'readings' which have now 'vanished' - the synonym-'readings' are those concerning which the prophet is alleged to have taught that to argue about them or to reject one of them is an act of unbelief; a statement originally no doubt circulated with the /

the aim of justifying the interpolation-'readings' by reference to the Sunna of the prophet. But the pre-ʿUthmānic 'variants' are not to be confused with the post-ʿUthmānic 'variants', disputing about which has never been regarded as unbelief.<sup>1</sup> The former were possible owing to the multiplicity of the consonantal bases; the latter, in spite of the uniqueness of the consonantal base, owing to the unvowelled and unpointed nature of the script in ʿUthmān's day. Following the settlement of ʿUthmān's textus receptus scholars remain nonetheless quite free to select that pointing and vocalisation which more nearly correspond to their opinions. Naturally, they continue to verify 'variants' of this kind by reference to the 'readings' of the Companions. No reading is now however permissible at prayer which does not conform to that muṣḥaf on the basis of which the pious ʿUthmān had united the Muslims. Providing always that they base themselves upon the rudimentary consonantal skeleton, and providing they can adduce evidence from the Tradition for their 'reading', which must also be defensible from the point of its ʿArabiyya, scholars may differ to their hearts' content and none may legitimately call them halt.<sup>2</sup> Sunna again has triumphed over the Qurʾān. All these 'variants' were revealed and the astonishing concision /

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1. Tab., taf., I p.65.

2. Itq. I pp. 139-40.

concision achieved by the Qurʾān, in which a single verse, if variously read gives rise to various rulings, all equally valid, is the hallmark of the divine solicitude for Islam especially, since no other religion received a Book which can be read in more than one way.<sup>1</sup> It provided also a divine precaution against the possibility of taḥrīf/tabdīl in Islam. Thus, if read in the accusative, wa ʿarjulakum<sup>2</sup> was revealed to institute the wuḍūʿ, while, in the genitive, wa ʿarjulikum, it sanctions the wiping the boots doctrine of others. Both parties can be justified, as both have the sanction of the Qurʾān. The brevity of the Qurʾān is one element in its ʿiʿjāz. In ʿAbū ʿUbaid's view, the readings of the Companions are the elucidation of the ʿUthmānic muṣḥaf.<sup>2</sup> The alleged unanimity of the Companions in the welcome they gave to the text settled by ʿUthmān remains a reference to the undenied common consonantal base of the universally accepted text.

Apart from interpolations, ikhtilāf remained possible for scholars who continued to seek documentary support from the Qurʾān by exploiting the 'deficiencies of the script'. The appeal to alleged 'ancient readings' remained residually possible, even for the purpose of secondary theoretical polemic in their latter-day reversion to the technique of appeal to synonymous or nearly synonymous 'readings' ascribed to /

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1. Itq. I p. 141.

2. ibidem.

to 'Abdallāh and others in the search for a Qur'ānic support for the theories of abrogation.<sup>1</sup> The origin of those 'readings' in tendentious tafsīr would be no argument against their authenticity, since the view that the Companion 'readings' are one source of tafsīr had become part of the doctrine.

None of the reports on the 'variant' Qur'ān codices, prepared for their personal use by the Companions and by them bequeathed to their followers and to the schools founded on their names, could for one moment have been acknowledged had the prophet been generally admitted to have recorded the revelations in a muṣḥaf of the prophet. Nor would this have been the case, had the Qur'ān texts, in the early days been known on a massive scale. Would, it may be argued, the Muslim scholars have even considered circulating reports that Muḥammad had not bequeathed to his nation an official record of his revelations, unless they were certain that he had not done so? Could they, on the other hand, have avoided doing precisely this, given the conflict between the doctrine and the Qur'ān, when they it was who insisted that Islam was a divine revelation, founded in the Qurān and the prophet, and when the accumulating logic of their successive arguments ineluctably drove them to reliance upon the only one consequential conclusion? The ikhtilāf-based and conflicting /

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1. vide supra, pp. 330 ff.

conflicting reports on the various stages in the collection of the Qur'ān raised questions as to its completeness. 'Abū Bakr's achievement had been to pursue the Qur'ān before much of it had vanished; to track it down in all surviving written scraps and in the memories of those still alive who had heard it from Muḥammad. The sources are somewhat vague as to the precise role conceived to have been played by the memories - whether this was one of many repositories of the Word, or subsidiary to, and useful for the control of the writing down of that which was yet recoverable. This trenches on the suspect question of the dialect of the Qur'ān and, given the 'inadequacies of the script', it is far from clear what degree of certainty could have been imparted to what was being recorded. One is, of course, concerned chiefly with the extent of the Qur'ān, rather than with its detailed phonetics - and those, as we also see, should not be too rigorously determined. The same considerations must apply to the reports that the most careful thought had been given to who should actually dictate and who write<sup>1</sup> and that any disputed pronunciation should be settled by opting for the Quraish pronunciation, since this was the language in which it had been originally revealed. References to the casting vote /

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1. vide Maṣ p. 22.

vote of the caliph on phonetic questions, and hence on the choice of script to reflect this, normally have in view the activities of 'Uthmān, to account for his even appearing in the history of the text. Precisely the 'inadequacy of the script' had however, applied as much in his day, as it had some dozen years earlier. This thought considerably limits the usefulness of his supposed achievement - opens it, indeed, to questions of fact. The role played by the memories must therefore be to serve as one of a number of alternative sources for the text - which would imply that not everything that had been revealed had achieved in Muḥammad's days even the allegedly limited security of written record, or, if once recorded, that the records had perished. Alternatively, the memories may have played the more negative role of guaranteeing that what matter was included in the recension had been authentically acquired from the prophet's mouth. The implication would then be that nothing had been included that was not properly of the Qur'ān. This end was further envisaged as having been achieved by yet another control mechanism - the acceptance into the text only of what can be attested by reference to the testimony of two Muslim witnesses. This detail, however, like the choice of who should dictate and who write is borrowed from the Qur'ān text<sup>1</sup> and hence suspect /

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1. vide Q II 282.



suspect. When the worse came to the worst, and reports persisted that acceptance had appeared in one case to rest upon the evidence of only one witness, the scholars could still apply this control by adducing satisfactory evidence that Muḥammad had declared a certain individual's testimony the equal of that of any two Muslims.<sup>1</sup> These scholars had, however, read the earlier reports carelessly.<sup>2</sup> Thus was discipline of a kind imposed upon a welter of apparently conflicting, confused, or simply misunderstood reports. No assurance had yet been given that everything that was properly of the Qur'ān had been included in the promulgated texts. The 'two witnesses' theory applies only to material that does appear today in the Qur'ān. It thus continues to be of use to the scholars faced with reports that there are authentic Qur'ān verses that have remained outside the promulgated muṣḥaf. Their absence is now to be explained on the assertion that these are verses which were withheld because the Qur'ān commissions had failed to find two witnesses to vouch for their authenticity.<sup>3</sup> The witnesses had unhappily perished in Islam's earliest wars.<sup>4</sup> The local doctrines /

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1. His name appears as dhul Shahādātāin.

2. vide Maṣ p.6; p. 30.

3. Itq.II p. 26.

4. Maṣ p. 29. He was killed, according to Zuhri, at Ṣiffīn. Nāḓī, op.cit.fol.14: 'Alī reports stoning as Muḥammad's Sunna. The man who memorised āyat al rajm died at Yemāma.

doctrines requiring verification appealed to the Companion muṣḥafs for the documentation of interpolations relative to the ʿUthmān text. The non-local Islamic doctrines that required Qurʾānic verification appealed either to vocalic or consonantal 'readings' arguably derivable from ʿUthmān, or made their appeal beyond ʿUthmān to the pre-ʿUthmānic condition of the Qurʾān in the postulation of a hypothetical proto-Qurʾān whose texts, for technical reasons deriving from the law of evidence had not all been recorded in writing.

There thus emerges the following schema :

ʾAbū Bakr, at the instigation of ʿUmar, who feared possible considerable loss of Qurʾān materials, commissioned Zeid to pursue the texts and to collect them into a single volume, having first overcome his initial scruples to undertake something which the prophet had neither done, nor requested.

ʾAbū Bakr's scruples were those of one who preferred to follow the Sunna of the prophet, rather than to innovate.<sup>1</sup> There is, as a result, the ʾAbū Bakr - ʿUmar - Zeid b. Thābit Qurʾān initiative, resulting in a Qurʾān recension, at most, about a year and a half after the prophet's demise.

Other reports tending to conflict with this, suggest that the /

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1. F.B. IX p. 9.

the Qur'ān in the hands of the successor generations was a debt to the initiative undertaken by the Ḥudhaifa - 'Uthmān - Zeid group, but these can be harmonised by postulating different collections, differently motivated in the prevailing circumstances. Poverty of materials had become embarrassing riches within the space of a dozen years. 'Abū Bakr - 'Umar - Zeid had feared loss. Ḥudhaifa - 'Uthmān - Zeid feared disunity. The admission of continued ikhtilāf either makes nonsense of the scrupulous care taken at first by Zeid, as does also the report on the re-instatement of the 'missing' verse, on the occasion of the second collection, or more probably, represents the earlier collection as having been incomplete. This it would have been, in the sense of 'Umar's having died before completion, or in the sense that, on the earlier occasion, the fair copy prepared by Zeid had been a unique copy, retained in the possession of the caliph and passing, at 'Umar's death to his daughter Ḥafṣa.

Nöldeke has observed the implicit contradiction.<sup>1</sup> Nor is it anywhere explained in the sources why it should be that the 'Abū Bakr - 'Umar - Zeid - Ḥafṣa codex, allegedly motivated by fear of loss, should have so long remained in an unproductive single copy, jealously guarded in the hands of a single person, and that only some dozen years later, when /

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1. GdQ., II, p.21.

when the original loss, whose fear had motivated their activity, might have been expected to have been widely realised, the idea of disseminating the Word of God and the blue-print of the God-founded society should belatedly occur to His prophet's third successor. That apprehended loss had apparently not materialised, since 'Uthmān's motives were to reduce, not to supplement the masses of Qur'ānic information now alleged to have been in circulation.

Owing to the zeal of some of the senior Companions, each of whom had apparently laid down the foundations of a widespread knowledge of the sunna of the Muslims, and the Book of God, among the populations of the developing Muslim colonies in the lands outside, and away from the cradle of the revelation, there was no lack of information about the Book, which might redound to the discredit of 'Uthmān's predecessors, in spite of their having kept the Book to themselves, and making no visible effort to publish it. Quite the contrary, there was, if anything, rather too much information, in the sense that there were, not one, but several Qur'ān's. But, if, as Islam so strenuously insists, there is but one God, and there has recently been but one prophet, how can there justifiably be multiple Qur'ān's?

Is there then more than one Qur'ān, more than one divine revelation? /

revelation?<sup>1</sup>

Not so, is the traditional reply, there is but one revelation, one Law, one Book. The multiplicity of Qur'ān's points to the existence of a loving and lenient God, and His loving and understanding prophet, solicitous for the weakness of the Arabs, the pride they take in their local languages, and their total inexperience in revelation matters.<sup>2</sup> God and Muḥammad had jointly permitted the revelations to be rehearsed in all the rich and eloquent variety of the Arab dialects, which, variously as they might clothe the revelation in the beauties and wealth of their individual tribal vocabularies, are nonetheless, but the vehicles of a single undifferentiated divine message. The curious fact that none of the great first generation 'readers' is a representative of the prophet's tribe of Quraish lies doubtless behind the various suggestions of Qur'ān commissions appointed by 'Uthmān, which comprised a majority of Qurashī members; and doubtless partly accounts for the presence of the Qurashī caliphs in the /

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1. Ṭab., taf., I, p.56: How can there be ikhtilāf when there is but one Teacher? Ṭabarī insists that the meaning, not the language is the crucial issue.

2. ibid. 64-5. Note the use in the Qur'ānic passage referring to Muḥammad of words normally reserved in the Qur'ān vocabulary for references to God.

the various stages of the collection. The task of the commissioners would have been to control the text of the non-Meccan Zeid. But, since the caliph is a Qurashī, the commissioners are redundant. Besides, the dialect theory survived even the ʿUthmān collection. Nöldeke, in his review of the conflicting collection ḥadīths, inclined to the opinion that the one solid unvarying factor was the ṣuḥuf of Ḥafṣa - the surest datum of the entire report, figuring not only in the first, the ʿAbū Bakr - ʿUmar - Zeid initiative, but persisting in the Ḥudhaifa - ʿUthmān - Zeid decision, although the reports on this latter appeared to him to have been originally independent of those on the former.<sup>1</sup> From this coincidence, he constructed his view of the actual historical evolution of the reports:

Nachdem die Gläubigen<sup>2</sup> sich mit der bitteren Wahrheit abfinden mussten dass ein so unfähiger und missliebiger Herrscher wie Uthman der Vater der kanonischen Rezension geworden war, mochte es ihnen als ein Gebot der ausgleichenden Gerechtigkeit erscheinen, dem jenen soweit überragenden Vorgänger wenigstens an der Vorarbeit zu dieser Rezension einen Anteil beizumessen. Auf keinem Fall führt ein Weg von Umar zurück zu Abu Bakr so dass, wenn überhaupt ein Chalife als Urheber in Betracht kommt, es nur Umar gewesen sein kann. Auf diesen weist ja auch der ausdrückliche Wortlaut einer der abweichenden Traditionen und die Hauptüberlieferung wenigstens insofern als sie /

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1. GdQ, II, p.21.

2. ibid. p.22.

sie diesen Chalifen als die treibende Kraft des Unternehmens hinstellt. Die Auffassung von dem Mitwirken Abu Bakrs ist durch die andere von der wirklichen oder angeblichen Urheberschaft seines Vorgängers bedingt. War Umar der geistesgewaltigste unter den ersten Chalifen so hatte Abu Bakr den Vorzug einer der ersten Gläubigen und der nächste Freund Muhammads gewesen zu sein. Da mochte es vielen verwunderlich erscheinen dass ein solcher Mann nicht ebenfalls bereits die Schaffung der Qurʾān - sammlung betrieben hätte und dieser fromme Wunsch sich allmählich zu einer geschichtlichen Aussage verdichten.

Following such penetrating observations, Nöldeke failed to perceive that equally persistent throughout all the reports of the kind, is that rôle assigned to Zeid b. Thābit. Perhaps this is the surest datum of all? There may be after all, some significance in the absence from certain of the reports on the ʿUthmān collection of a specific reference to Zeid's alleged earlier connection with the ṣuḥuf of Ḥafṣa, a circumstance which seems to underline the difference between 'the broken thread' of Ḥafṣa's ṣuḥuf and that unbroken thread of Zeid's participation in all the official Qurʾān collections. Zeid, and not Ḥafṣa, is the constant factor, from the lifetime of the prophet, up to the days of Marwān b. al Ḥakam's governorate.<sup>1</sup> If analysis enables us to establish that the attribution of a Qurʾān collection to ʿAbū Bakr - ʿUmar is a /

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1. Maṣ. p.21.

a projection back to a revered and semi-legendary generation of that merit that must otherwise accrue grudgingly to the unpopular ʿUthmān, further research may yet enable us to regard the attribution of a collection to ʿUthmān, who was, at least, one of the 'four rightly-guided ones', as a parallel retrojection into the golden age of peninsular Islam of the merits which faction and hatred could not bring themselves to attribute to some 'godless' Umayyad.

Casanova,<sup>1</sup> failing to perceive the political objective of Muḥammad's warnings of the Last Day and its dread judgment, accepted these as the statements of a genuine religious concern for the Apocalypse. The prophet, and his followers, solicitous for their fate, in the imminent collapse of the universe, could not be expected to spend their time on literary labours. Only the gradual awakening of the Companions, after the death of Muḥammad, to the truth that the Final Day must be postponed to an indefinite future, created the perspective in which the assembling of the revealed Scriptures would not be inappropriate. The thesis proposed here, is that, not only the Companions, but more significantly, the first generations of the scholars, evinced no consciousness of the suspicion that the Qurʾān was either the primary, or indeed a necessary source.

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1. Muḥammad et la Fin du Monde, Paris, 1911, p.105.



This suggestion will be substantiated when we turn to the consideration of certain aspects of the doctrine. Polemic pressures, exerted upon the Muslims, forced them to adopt the slogan that the doctrine had been derived from the prophet and from the Book of God. Internal pressure was to reverse this to read: from the Book of God and from the prophet. But, when it became evident that this form of the claims for the origin of the doctrine could not be verified from the documents we now possess, elaborate structures of ḥadīth were erected, to show, with reference to the date and circumstances of the collection, and the collation of the documents, how the visible gap had arisen.

Referring to Caetani's analysis of the casualty lists for the Yemāma wars, Nöldeke noted<sup>1</sup> that these tended to cast doubt on the 'fear motives' inspiring the earliest reported collection, and reminded us that the traditions on that collection laid emphasis on Zeid's almost complete dependence upon written sources. Nöldeke has however been guilty of distorting the emphasis, for what the sources speak of, is Zeid's alleged reliance upon both written materials and the memories of men. Theoretical considerations forced the commentators to read the 'and' at this point, as a reference to a secondary, as opposed to an alternative /

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1. GdQ, II, p.20.

alternative source.<sup>1</sup> Our concern is not with Nöldeke and Caetani, with the historicity of the reports, but with the fact of their existence, in so far as this can be held to document the doctrine, held by many of the Muslims, to the effect that our present Qur'ān texts are incomplete. In a review of the Muslim discussions on the principles of abrogation, what they hold to be true is of primary importance. Whether it happens to be factually true in the historical sense, or historically false, is of course, relevant to our study, but, for the present, of secondary moment.

By the principle of the abrogation of both the Qur'ān ruling and the Qur'ān wording that had once embodied it, what the Muslim scholarship means is precisely that in their view, parts of the Qur'ān text, as originally revealed to the prophet, had not come down to them in writing. Such loss as they envisaged, they accounted for in one of two ways: either that the verse had been revealed to Muḥammad and went no further, whether because he forgot it, before communicating it to his followers, and on this line of thought, two further views are possible - that he forgot by reason simply of being a human,<sup>2</sup> or, more popularly with the /

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1. F.B. IX, p.11.

2. ibn Kathīr, taf., I, p.150.

the scholars, that he forgot, because God had willed that he should forget and had caused him to forget, so that the verse should not form part of the collected Book. Nöldeke asserts the likelihood of loss of Qur'ānic matter in the earliest days, when Muḥammad had little or no following, and hence no incentive to record the verses in book-form.<sup>1</sup> The suggestion is inherently probable, but it is not the view of the Muslims.

Incoming, and the development of native ideas, tend to minimise the humanity of prophets. Alternatively, the verse might have been revealed to Muḥammad and by him transmitted to the Companions, some of whom wrote them down in the records they were privately keeping of the revelations. At some subsequent point in time, God, not willing that the verse should continue to be recited and not willing that the ruling it embodied should remain the basis of the Muslim practice, supernaturally intervened to spirit the verse away, both from the memories of Muḥammad and his adherents, and from their private records, leaving the page, at that point blank. Another, but for obvious reasons, less appealing view, was that the prophet having died, without leaving the revelations collected in a single volume, was survived by his Companions, some of whom carried /

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1. GdQ, I, p.45.

carried the treasured verses in their capacious memories. Shortly after the death of Muḥammad, many of the tribes who had given lipservice allegiance to him, as sheikh of the Muslims, considered their reluctant allegiance determined by his decease. Such was not however the view of the legal position taken by Muḥammad's successor, 'Abū Bakr, who declared war upon the defaulters. In the course of the wars, many were killed who had been the repositories of sections of the revelations. The dangers of this situation were brought home painfully to 'Umar b. al Khaṭṭāb, who enquired about a particular verse, only to be informed that he who had been in sole mental possession of it had just been killed. Seeking an immediate audience with the Head of State, 'Umar urged upon him the necessity of collecting, without delay, all that yet remained of the Qur'ān before further battles against the apostates should remove more of the faithful, whose memories alone were the guarantors of much of the Qur'ān. It is not a little shocking to the impartial western observer to appreciate that the idea that our Qur'ān texts are incomplete is advanced, not by some ill-educated western missionary of to-day, nor by one equally hostile oriental Christian or Jewish dignitary of the middle ages, but by sober Muslim scholars, who have not hesitated to ascribe their opinion, not indeed only to revered fathers of the magnitude of Zuhri, /

Zuhri,<sup>1</sup> or Companions such as ʿAbdāllāh, ibn ʿAbbās or ibn ʿUmar, but even more, have affected to trace it back, not merely to the prophet, but to God Himself! That highly artificial distinction erected between Muḥammad's forgetting by reason of his humanity - and hence his fallibility - and his forgetting by reason of the divine will that he should forget - and hence his infallibility - does nothing but reinforce the unanimity that forget he did. The unanimity perhaps is a pointer to the antiquity of the view that the Qurʾān is, to that extent, incomplete and, since it is inconceivable that the Muslims would spontaneously bruit abroad such a potentially damaging judgment on their own credentials, unless there had been some compelling motive, not disconnected with the rôle of the Qurʾān as their credentials, that view itself is likely to prove secondary to some other precedent link in a chain of sound logical reasoning. Muslims enough there are who argue that the doctrine of abrogation has to be accepted because it is mentioned in the Qurʾān. This assertion will not go /

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1. One is forcibly struck by the observation that so much of the ḥadīth on the history of the text of the Qurʾān converges upon the authority of this second century source. Zuhri figures in both of Buchārī's ḥadīths and in all five ḥadīths in Maṣ. He concentrates upon Zeid's rôle and his isnad is somewhat doubtful. It is in any case isolate.

go unchallenged hereafter. But one has already sufficient experience of the Muslim hermeneutics to appreciate that, had they had no prior need to find abrogation verified by the Qur'ān, the scholars would never have seen it there. Since the Qur'ān does not precede doctrine, but functions rather to vindicate doctrines, previously established external to the Qur'ān, then it is safe to hold the reverse—that what the majority of the scholars wish to find verified there, they have all the skill to find. A minority of scholars, embarrassed by the abrogation doctrine, read the same 'proof-verses' adduced by the majority and find a comforting solution. Abrogation can indeed be shown to be mentioned in the Qur'ān, but as we shall see further, solely because it had to be found there. The origins of abrogation, as a central doctrine in the Islamic methodologies, must be sought elsewhere. To suppose otherwise, would be to adopt a much too naïve view of the nature and business of the sciences of tafsīr and ta'wīl.

It is therefore suggested at this point, that the Muslims hold the surprising doctrine that the Qur'ān, as we come to know it in history, was already incomplete, because, in the interests of another fundamental doctrine, it was imperative that it be seen to be so. This is what was meant by our saying that whether the Qur'ān is, as a matter of historical fact, complete or incomplete is quite immaterial /

immaterial to our study, concerned as we are, with the settled majority view, that as a matter of doctrinal fact, the Qur'ān is incomplete. Here is the central issue, beside which, concern for the veracity or the tendency of the various reports which assign various dates to the collection of the Qur'ān texts, and the varying circumstances against the background of which the decision to collect was taken, and by whom, is of minor academic importance, once assent is given to the major premiss: that it was not the prophet who took that decision.

The masses of ḥadīth material which surround the various versions of the Qur'ān collection, some of which only, we have considered, are merely the consequential garnishing around the central and significant assertion that Muḥammad did not leave an edited Qur'ān text to his successors. The assertion is, of course, contradictory, since, given all the work that has gone into the principle that God would cause His prophet to forget that which was not destined, in the divine purpose, to form part of the Muslim Scripture, or of the Muslim praxis, God could still have permitted Muḥammad, in the final stages of his life, to promulgate the revelations in their divinely intended final form. This could reflect the text of the 'final review' and would have reconciled that doctrine with the 'forgetting' motif. The contradiction was inescapable since /

since the reports had been designed to account for two incompatibles: the allegation that the doctrine was derived from the Qur'ān and the prophet to whom it had been revealed; and the demonstrable break between the contents of the Qur'ān and the historical Muḥammad on the one hand, and the post-Muḥammedan doctrine on the other. Neither of the two could be abandoned. The contradiction between the two claims is perhaps due to the fact that each was of a separate ultimate origin, the one a response to internal, the other to external pressure. We shall have to conclude that the Muslims could not afford to be seen in the possession of a Qur'ān that had been approved by Muḥammad. His 'final review' text would have sufficed to explain the absence from the Qur'ān texts of matter that had been revealed in conformity with the divine intention that such verses should not form part of the final promulgated texts - 'naskh al ḥukm wa al tilāwa'. It would fail however to account for, indeed, it would render impossible, the omission from the officially promulgated text, of verses which it was not the divine intention to omit. Even such omission had however, it is alleged, historically occurred, since certain elements of the doctrine, verified by reference to the Qur'ān, are quite unmentioned in the Qur'ān. These are instances of rulings of the type 'naskh al tilāwa dūna al ḥukm', the justification of which is impossible except on the hypothesis /



thesis that our Qur<sup>ā</sup>n texts are post-Muḥammedan. Where such doctrines were universally held, appeal to Companion-muṣḥafs clearly would have served, but that it would not have served further argues that the Companion muṣḥafs served a more specialised need.

Close examination of the materials collected by scholars, Muslim and non-Muslim alike, far from leading to a conviction in favour of the authenticity of the Companion muṣḥafs, tends rather, to inspire a wholesome reserve and even scepticism toward the historical value of the reports of the very existence of independent pre-<sup>U</sup>thmānic codices. One is most strongly minded to treat with the utmost caution the historicity of 'independent' muṣḥafs, entirely dependent upon the familiar '<sup>U</sup>thmān' codex for their very description. Thus, as to content, we are informed that <sup>U</sup>Abdallāh's Qur<sup>ā</sup>n lacked three of the sūras in '<sup>U</sup>thmān'; whilst <sup>U</sup>Ubayy's contained two sūras lacking in '<sup>U</sup>thmān'. This type of statement raises serious questions for the doctrine of the tawātur of the Qur<sup>ā</sup>n, which had to be examined by al Fakhr al Rāzī. As to sūra-order, in the supposedly independent codices, one scholar, struck by the curious circumstance that the order in both <sup>U</sup>Abdallāh and <sup>U</sup>Ubayy agreed more closely with the arrangement in <sup>U</sup>thmān, than with each other, supposed that behind the extraordinary organisation of the contents of /

of all three there must lie some literary convention long since forgotten<sup>1</sup> - a circumstance, which, like the first, might more easily be explained by recognising that 'Uthmān provided the model on which the description of all fictitious recensions was based. The alleged pre-Uthmānic codices share with the celebrated ṣuḥuf of Ḥafṣa<sup>2</sup> the distinction of having been condignly dealt with, following the triumph of the officially promulgated text. Unfortunately, this means that since the beginning of the history of the Qur'ān text itself, they have been beyond the reach of scientific historical examination. Reports on the alleged concealment and preservation of 'Abdāllāh are uniformly /

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1. GdQ, II, p.43.

2. Maṣ. p.21: When Marwān became governor of Medīna, he sent to Ḥafṣa, to ask for her ṣuḥuf, in order to burn them, since he feared that some parts of the Book might conflict with others. She did not comply with his request. Zuhri reports that when Ḥafṣa died, Marwān sent to ibn 'Umar, demanding the ṣuḥuf. The moment they returned from her funeral, 'Abdāllāh sent the sheets to Marwān, who opened them out and burned them, in case they should contain matter at variance with 'Uthmān'. But 'Uthmān merely copied the ṣuḥuf! Marwān offered an alternative explanation: Some questions as to these ṣuḥuf might be raised in future; or someone might argue that part had not been copied. cf. p.25, 'Ubayy's son is unable to produce 'Ubayy's muṣḥaf. 'Uthmān was said to have seized it.

uniformly based upon an ignorant tafsīr of Q.III,161, the minatory context of which has been quite overlooked.<sup>1</sup>

The alleged destruction of these codices has not prevented scholarship from adducing in abundance materials on the 'variant' readings supposed to have been preserved by the Companions in their recensions, which were apparently still in circulation and familiar enough to be regularly employed as illustrations in the tafsīr and fiqh works, or offered in explanation of 'variant opinions', generations later than that point in time when they were alleged to have been rooted out. One is also familiar with the reports of the scholars that seldom are two copies of the muṣḥaf of the Companion to be found to be in agreement, even on the question of the order of the chapters.

It is a curious circumstance that the personalities invariably called upon in the traditions to testify to the historical occurrence of the phenomenon of the retracting (rafʿ) of Qurʾānic material, whether by the normal processes of human forgetting, or the supernormal intervention of the deity, coincide with those personalities involved in one or other of the various stages in the collection of the Qurʾān texts; and that it is the same personalities that once more appear, in the guise of eponyms for the local doctrines, particularly in view of their not infrequent conflict; /

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1. vide Maṣ. p.18.

conflict; and that these doctrines are said to have derived, either from the sponsors' store of sunna materials, or from the 'variant' Qur'ān readings. We may perhaps be pardoned for suspecting that here is another of the 'unbroken threads'. For, apart from °Ubayy, who has not been successfully fitted to his dual rôle, the others, °Umar; °Abdāllāh; °Abū Mūsā and Zeid are called upon to contribute to the documentation of both the collection of, and the diminution of the divine revelations. °Ā'isha, like Ḥafṣa, a widow of the prophet, whom we have seen providing material information, from the Qur'ān, on the forbidden degrees, is not only a name to appeal to in the Sunna, but is also credited with her own muṣḥaf, which on occasion, is laid under tribute in the settlement of some point of disagreement in the fiqh and sometimes in direct opposition to Zeid.<sup>1</sup> Nöldeke speculated that °Ā'isha,<sup>2</sup> prominent in the Sunna documentation, may also perhaps, be seen as acting by proxy in the history of the Qur'ān, in the mention of her father, °Abū Bakr, as Ḥafṣa seems to be represented by her father, °Umar. We noted that the ṣuḥuf of °Ā'isha are mentioned in one ḥadīth, in place of the ṣuḥuf of Ḥafṣa.<sup>3</sup> °Abdāllāh, °Abū Mūsā, et alii, are likewise prominent in both /

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1. cf. for ṣalāt al wuṣṭa: Ṭab., taf., V, pp.167 ff. on Q.II, 238.

2. GdQ, II, p.23.

3. Itq. I. p. 314.

both fields, while, Zeid, important in both spheres, alone of all these personalities, appears consistently in all phases of Qur'ān text development from the revelation of the verses to the prophet, through all the 'Abū Bakr, 'Umar, 'Uthmān initiatives up to and including a vague Qur'ān initiative in Umayyad times. In the light provided by such striking coincidences a coherent pattern at the back of all traditions on Qur'ān codices and collections begins to emerge. The 'variant' muṣḥafs of the eminent Companions and the widows are the Qur'ānic pole of the symbolic roles played by them (imposed upon them) by which Qur'ānic evidences are adduced in their names by the rival schools of opinion in scholastic disputes, and thus correspond to the variant ḥadīths ascribed to them in the same way, and to the same end, as a device to furnish the documents from the Sunna for the school views.<sup>1</sup>

That the 'readings' adduced as evidence in the disputes, are not to be found in the Qur'ān is an objection easily countered by appeal to the personal muṣḥafs of the Companion school-patrons. That their muṣḥafs are not available for examination is answered by alleging their suppression. The conclusion follows that the demand for Qur'ānic evidence arose at a point in time later than the origination of the fashion /

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1. vide especially Ṭabarī on Q.II, 238 loc.cit.

fashion of adducing Sunna evidence from Companions. With the development of the concept of the Sunna of the prophet, one finds evidence of originally Companion-ḥadīths evolving into prophet-sunnas. One does not find similar evidence of the Companion-readings, where these go against the consonantal outline of the texts, evolving into prophet-readings. This suggests that here there existed conditions absent in the Sunna. Scholars were confronted with a vigorous Qur'ān text independent of all the schools, and not amenable to manipulation. Its very inflexibility suggests, indeed, that the reverse of the Sunna situation obtained for the Qur'ān - namely, that as a document it existed and was to some extent known before it was called upon to behave as a source. It may even be pertinent now to wonder how far that degree of flexibility that the Qur'ān does exhibit owing to the alleged 'deficiencies of the script' and such as comes so often to the aid of the sectional doctrines, may not itself have gradually been imposed upon the texts, of a purpose to render them the more supple. This as will be shown was a technique still open to scholars after the rise of ʿuṣūl al fiqh. If synonym 'variants' can be used to give greater verisimilitude to alleged non-synonym 'variants', could not the reports of the flat stones, stripped palm-fronds and other primitive materials on which the Qur'ān is supposed to have been recorded in apostolic days and which might /

might be regarded as a deliberate attempt to exaggerate the simple and backward conditions of life in the generation of Muḥammad and the Saints, have been used to suggest, by extension, the primitive condition of the written language devoid of diacritics and vowelling?<sup>1</sup> There seems to be a contradiction here, too between the highly sophisticated commercial and banking skills developed at Mecca, in which Muḥammad and his major Companions were themselves at one time involved, not to mention the level of Jewish scholarship which flourished at Medīna. One recalls the doctrinal polemic necessity of holding the prophet to have been illiterate in the double sense. Perhaps one ought also to bear in mind the desirability to the scholars of greater liberties than a fully pointed and vowelled text would have afforded.

If we now separate Sunna-ḥadīths from Qur'ān-ḥadīths, we find the following position: Sunna-ḥadīths can become marfū° their isnads growing backwards to find the prophet. The contents of conflicting reports on the praxis attributed, at one point to Successors, acquire attribution to the Companions, /

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1. Abul Khair Muḥd. al Jazarī, K. al Nashr, I, p.7. The infallible 'umma are unanimous on the contents of these muṣḥafs and have abandoned any variants, whether seen as additions, as omissions, or alternate wording. The muṣḥafs were devoid of pointing and punctuation in order to allow for anything whose transmission was sound and whose use by the prophet had been ascertained.

Companions, and finally to the prophet. It follows that Sunna-ḥadīths from the prophet are frequently to be found in conflict. Doctrines traced to the Qur'ān in the Companions muṣḥafs, also occasionally clash, yet Qur'ān-readings seldom advance their attribution beyond the Companions. Their attribution to the Companions provides only a vague, general and unspoken implication that they necessarily derive ultimately from Muḥammad. 'Variant' readings which depart from the ʿUthmānic consonantal base, are, however, never referred explicitly to the prophet. Both tafsīr, and reading ḥadīths thus remain generally mawqūf. In this sense, Qur'ān-ḥadīths stop short of that free development which was open to the Sunna-ḥadīths. Such a distinction is unlikely voluntarily to have been imposed upon themselves by the scholars in a universal self-denying ordinance. We have seen, and shall see further, how imaginative they can prove on matters not mentioned in the Qur'ān. That on matters, which however, are to be found in the Qur'ān their fancies were more rigorously restricted, leads to the conclusion that the major obstacle to their inventive capacities was just the existing Qur'ān document itself.

For Sunna purposes, such figures as ibn ʿAbbās, ibn ʿUmar and ibn al Zubeir are regarded as technically Companions. For Qur'ān text purposes, however, they are technically Successors, /



Successors, deriving their texts from the Companions. For tafsīr-ḥadīth purposes they recover their status as Companions. One of the Qur'ān sciences (qirā'a) is thus at first sight, technically more backward than the other Sunna sciences to which, rather than to the Qur'ān sciences, tafsīr properly belongs. If Schacht's brilliant development of Goldziher's original thesis be accepted, ḥadīths from a Companion are later than Traditions from a Successor and earlier than ḥadīths from the prophet. The thesis has now to be further modified in the light of the theories of abrogation with their stated preference for the traditions from the younger Companions. Ḥadīths from a younger Companion are later than ḥadīths from an older Companion. By extension, the Qur'ān 'reading' of a younger Companion is later than the Qur'ān 'reading' of an older Companion. Given conflicting Sunna-traditions from the prophet, those whose isnads are traced through the younger Companions are later than, and were intended to supersede those reported from the older Companions. The conflict in the Sunna was thus partially resolved. The Qur'ānic science, apparently technically more backward than the Sunna sciences, in fact derives from the latest stage of the latter. Hence the paradox that ibn 'Abbās and his generation derive their Qur'ān texts from the Companions. In the case of ibn 'Abbās himself, there would appear to have been a shift in the isnad /

isnad of his muṣḥaf, for it seems at one point to have been attributed to ʿAbdallāh<sup>h</sup> b. Masʿūd. But this attribution concerns the 'variants' referred to ibn ʿAbbās, who thus offered a second lease of life to the ʿAbdallāh muṣḥaf when this had been superseded by the muṣḥaf attributed to Zeid. The isnad is the instrument with which to counter ḥadīths. ibn ʿAbbās' muṣḥaf is now traced, like the 'ʿUthmān' muṣḥaf, and doubtless for the same reasons, to Zeid b. Thābit, the youngest of the major collectors. The primary object of the collection-ḥadīths was to propagate and verify the notion that the prophet had not collected the Qurʾān. The Companions thus move to the forefront and the time-gap created renders it plausible that certain Qurʾān materials might have dropped away from the body of the original revelations. There is an intimate relation between ḥadīths on the Qurʾān as a document and one of the meanings of the term 'naskh' (suppress/withdraw). A further relation to a second meaning of the same term 'naskh' (supersession) must be read into the prominence conferred by modifications of the same ḥadīths upon Zeid, one of the youngest, and longest-surviving of the Companions. The lateness of his Islam implies the lateness of his information for both the Sunna and the Qurʾān as a source. Zeid's muṣḥaf can therefore be represented as the 'nāsikh' of the muṣḥafs of the older Companions. ʿUthmān was not only one of the 'rightly-guided /

guided ones' but the last of the caliphate's links with the Medīna of Muḥammad.

ibn ʿAbbās - Zeid is a doubly late isnād. Hamadhānī<sup>1</sup> decides for an ibn ʿAbbās report against an ʿAbū Huraira version. ʿAbū Huraira's Islam dates from Khaibar, and is very late; but ibn ʿAbbās' is even later, dating from the conquest of Mecca.

"The ḥadīth to be preferred<sup>2</sup> is related by the younger Companions, such as Sahl b. Saʿd and ibn ʿAbbās. It is also related by transmitters whose Islam was late. The ʿUbāda ḥadīth reflects the situation in early Islam and between the two situations reported in the two ḥadīths there was a considerable period of time. It may therefore be confidently relied upon that the ḥadīth of the others abrogated the ʿUbāda ḥadīth."

"Taḥawī related<sup>3</sup> sound ḥadīths on one question and then a single ḥadīth from ʿAbū Huraira, which was, however, mawqūf. He nevertheless relied upon it, and abandoned (taraka) the other reliable ḥadīths, on the grounds of their abrogation, since he held ʿAbū Huraira in high regard and argued that he was never at variance with the reported practice /

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1. op.cit. p.140-141. cf. p.171.

2. Hamadhānī, op.cit. p.202.

3. ibid. p.8.

practice of the prophet, save where he was certain that it had been abrogated.

The transition between two points of view is shown by two contrasting ḥadīths reported by Ṭayālāsī:<sup>1</sup> The ḥimām should be he whose acquaintance with the Book of God, and whose 'reading' is the most ancient.

Ibrāhīm said:<sup>2</sup> 'This ḥadīth they welcomed since Jarīr's conversion occurred later than the revelation of Sūrat al Mā'idā.'

Under the terms of the earlier principle, ʿAbū Bakr or ʿUmar would be preferable to ʿUthmān or to ʿAlī as Qurʾān compilers, less preferable under the terms of the second. ʿUthmān-Zeid provides a doubly late isnād. It is notoriously hazardous to attempt to date ḥadīths from their isnāds, but as to the timing of the interest in the isnād of the Qurʾān one is forcibly struck by the ubiquity of Zuhri in the ḥadīths on the various collections. He appears in both the Buchārī ḥadīths and in the five Maṣāḥif ḥadīths on the collection of the texts, and in all ḥadīths he is concentrated solely on the activities of Zeid. In both the Buchārī, and in five out of six ḥadīths in the Maṣāḥif, /

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1. op.cit. p.95.

2. ibid. p.86.

Maṣāḥif, Zuhri reports from 'Ubaid b. al Sabbāq. There is some doubt as to whether 'Ubaid was in contact with Zeid. Some versions have 'an, others merely 'an. ibn Hajar knows of no ḥadīth from 'Ubaid from any person earlier than Sahl b. Hunayf, who died in 'Alī's caliphate. He adds<sup>1</sup> that this is 'Ubaid's sole ḥadīth in the entire Būḥārī collection. Ḥadīths on 'Uthmān's alleged collection of the Qur'ān are thus unlikely to have originated earlier than the second quarter of the second century - in the midst of the very heyday of school ikhtilāf.

#### Qur'ān interpolations:

There are two classes of Qur'ān interpolation : those documenting regional differences. These are interpolations relative to the 'Uthmān' recension. There are also the interpolations documenting universally held doctrines, such as stoning. Shāfi'ī's *ridā'* doctrine falls between the two, for his appeal was not to a Companion-muṣḥaf, but developed from appeal to the 'muṣḥaf of 'Ā'isha to appeal to the pre-'Uthmānic proto-Qur'ān revealed to Muḥammad. Those who refused to admit that the Sunna can abrogate the Qur'ān made precisely the same appeal.

The 'Uthmān-Zeid isnād had been designed to counter appeals to the alleged Companion-muṣḥafs. The alleged 'Uthmān' recension /

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1. F.B. IX p. 8.

recension could thus very well be as fictitious as the Companion-muṣḥafs which it was called into being to counter. In the case of other doctrines, the 'Uthmān' recension was consciously designed to 'explain' the absence from our Qur'ān texts of the 'relevant' Qur'ān wording. But, here the appeal to the fictitious 'Uthmān' recension is counter to the attribution of a Qur'ān recension to the prophet.

If, as we have suggested, the 'Uthmān' recension is a fiction, then the conclusion we shall have to draw from all that has gone before is that the Qur'ān texts we have in our hands today have come down to us from Muḥammad.

Muḥammad had had to be excluded from the history of the text of the Qur'ān to allow for the theories of abrogation, in particular, for those which envisaged 'gaps' in our texts - 'naskh al ḥukm wa al tilāwa' and 'naskh al tilāwa dūna al ḥukm'. The first of these justified the latter, and in addition, the analogically derived 'naskh al ḥukm dūna al tilāwa' which, together with 'naskh al tilāwa dūna al ḥukm' originated in the scholars' attempts to rationalise the conflict clear to all between the doctrine and its alleged source in the Qur'ān.